

EXHIBIT B11

Ellen Blair Smith, M.D.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE: JOHNSON & JOHNSON)
TALCUM POWDER PRODUCTS)
MARKETING, SALES)
PRACTICES, AND PRODUCTS) MDL NO:
LIABILITY LITIGATION) 16-2738 (FLW)(LHG)
)
THIS DOCUMENT RELATES TO)
ALL CASES)

ORAL VIDEOTAPED/REALTIMED DEPOSITION OF

ELLEN BLAIR SMITH, M.D.

JANUARY 9, 2019

VOLUME 1 OF 1

Ellen Blair Smith, M.D.

<p style="text-align: right;">Page 2</p> <p>1 ORAL AND VIDEOTAPED/REALTIMED DEPOSITION OF</p> <p>2 ELLEN BLAIR SMITH, M.D., produced as a witness at</p> <p>3 the instance of the Defendants Johnson & Johnson</p> <p>4 entities, and duly sworn, was taken in the</p> <p>5 above-styled and numbered cause on January 9, 2019,</p> <p>6 from 9:24 a.m. to 9:23 p.m., before Karen L. D.</p> <p>7 Schoeve, CSR, RDR, CRR, in and for the State of</p> <p>8 Texas, reported by computerized machine shorthand,</p> <p>9 at the Hilton Austin, 500 E 4th Street, Austin,</p> <p>10 Texas, pursuant to the Federal Rules of Civil</p> <p>11 Procedure and the provisions stated on the record or</p> <p>12 attached hereto.</p> <p>13 It is further agreed that Rule 30(b)(5) is</p> <p>14 waived by agreement of the parties.</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S (Continued)</p> <p>2</p> <p>3 FOR DEFENDANTS JOHNSON & JOHNSON ENTITIES:</p> <p>4 SCOTT A. JAMES, ESQUIRE</p> <p>5 SHOOK, HARDY & BACON L.L.P.</p> <p>6 JPMorgan Chase Tower</p> <p>7 600 Travis Street, Suite 2450</p> <p>8 Houston, Texas 77002-2926</p> <p>9 D: 713.546.5644</p> <p>10 T: 713.227.8008</p> <p>11 F: 713.227.9508</p> <p>12 sjames@shb.com</p> <p>13 --AND--</p> <p>14 KATHERINE McBETH, ESQUIRE</p> <p>15 DRINKER BIDDLE & REATH LLP</p> <p>16 One Logan Square, Suite 2000</p> <p>17 Philadelphia, Pennsylvania 19103-6996</p> <p>18 D: 215.988.2706</p> <p>19 T: 215.988.2700</p> <p>20 F: 215.988.2757</p> <p>21 katherine.mcbeth@db.com</p> <p>22</p> <p>23 FOR DEFENDANT IMERY'S TALC AMERICA, INC.</p> <p>24 MICHAEL R. KLATT, ESQUIRE</p> <p>GORDON REES SCULLY MANSUKHANI, LLP</p> <p>816 Congress Avenue, Suite 1510</p> <p>Austin, Texas 78701</p> <p>D: 512.582.6485</p> <p>T: 512.391.0197</p> <p>F: 512.391.0183</p> <p>mklatt@grsm.com</p> <p>--AND--</p>
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<p style="text-align: right;">Page 11</p> <p>1 PROCEEDINGS</p> <p>2 THE VIDEOGRAPHER: Here begins the</p> <p>3 deposition of Ellen Blair Smith, Ph.D.</p> <p>4 THE WITNESS: No, M.D.</p> <p>5 THE VIDEOGRAPHER: M.D. Excuse me.</p> <p>6 Today's date is January 9th, 2019.</p> <p>7 The time is 9:24 a.m.</p> <p>8 Will the court reporter please swear</p> <p>9 in the witness.</p> <p>10 ELLEN BLAIR SMITH, M.D.,</p> <p>11 having been first duly sworn to tell the truth, the</p> <p>12 whole truth, and nothing but the truth, so help her</p> <p>13 God, testified as follows:</p> <p>14 EXAMINATION</p> <p>15 BY MR. JAMES:</p> <p>16 Q. Good morning, Dr. Smith.</p> <p>17 A. Good morning.</p> <p>18 Q. Is Dr. Smith the appropriate way to refer</p> <p>19 to you?</p> <p>20 A. Sure.</p> <p>21 Q. Okay. My name is Scott James. I'm</p> <p>22 counsel for J&J, and we met briefly before the</p> <p>23 deposition, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q. More than ten?</p> <p>2 A. Yes.</p> <p>3 Q. More than 20?</p> <p>4 A. I would think so.</p> <p>5 Q. All pertaining to this litigation?</p> <p>6 A. No.</p> <p>7 Q. Okay. How do you know Ms. Thompson?</p> <p>8 A. I've known Dr. Thompson for almost 40</p> <p>9 years.</p> <p>10 Q. And how did you first meet Ms. Thompson?</p> <p>11 A. I was a fellow in gynecologic oncology at</p> <p>12 Duke, and she was a senior resident at Duke. She's</p> <p>13 one year behind me in training.</p> <p>14 Q. How many meetings have you had with</p> <p>15 Mrs. Thompson pertaining to this litigation?</p> <p>16 A. I don't know. A lot.</p> <p>17 Q. Same series of questions. More than ten?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. More than 20?</p> <p>20 A. Yes.</p> <p>21 Q. And have those meetings occurred between</p> <p>22 the first contact about the litigation, which was</p> <p>23 January 2017, and today?</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 14</p> <p>1 Q. More than 30 meetings?</p> <p>2 A. Probably not that many.</p> <p>3 Q. Can you estimate the amount of time that</p> <p>4 you have spent with Mrs. Thompson pertaining to the</p> <p>5 issues in this litigation?</p> <p>6 A. No, I cannot.</p> <p>7 Q. Have you met with any other counsel for</p> <p>8 plaintiffs in this litigation?</p> <p>9 A. Leigh O'Dell and Cynthia Garber.</p> <p>10 THE WITNESS: And Paula, I don't know</p> <p>11 your last name.</p> <p>12 MS. BROWN: Brown.</p> <p>13 Q. (BY MR. JAMES) Any other counsel besides</p> <p>14 the ones you just mentioned?</p> <p>15 A. No.</p> <p>16 Q. How much time would you -- have all the</p> <p>17 meetings with Mrs. O'Dell and Ms. Garber -- and I --</p> <p>18 my apologies, Mrs. Brown, have any of those meetings</p> <p>19 been without the presence of Mrs. Thompson?</p> <p>20 A. No.</p> <p>21 Q. Has Ms. Thompson been present at all of</p> <p>22 your meetings pertaining to this litigation?</p> <p>23 A. Yes.</p> <p>24 Q. Dr. Smith, have you given a deposition</p>	<p style="text-align: right;">Page 16</p> <p>1 MR. JAMES: Thank you, Mr. Klatt.</p> <p>2 Q. (BY MR. JAMES) Have you ever worked as an</p> <p>3 expert -- a paid expert in litigation before?</p> <p>4 A. Yes.</p> <p>5 Q. What -- what matters?</p> <p>6 A. It was expert testimony as an expert on</p> <p>7 cervical cancer, in between 1996 and 1998, for a</p> <p>8 local obstetrician gynecologist here in Houston, and</p> <p>9 the case pertained to appropriate treatment of</p> <p>10 carcinoma in situ of the cervix, and the patient's</p> <p>11 informed consent for a hysterectomy.</p> <p>12 Q. Were you serving as an expert for the</p> <p>13 physician?</p> <p>14 A. I was on the defense side, yes, sir.</p> <p>15 Q. Have you served as an expert in any other</p> <p>16 litigation other than the one you just mentioned and</p> <p>17 the talc MDL?</p> <p>18 A. No.</p> <p>19 Q. How many prior depositions have you given?</p> <p>20 A. Maybe five. I was -- I've been treating</p> <p>21 physician in several litigations, not an expert,</p> <p>22 just fact.</p> <p>23 Q. Were you deposed in the -- as an expert in</p> <p>24 the litigation that you just discussed with us?</p>
<p style="text-align: right;">Page 15</p> <p>1 before?</p> <p>2 A. Yes.</p> <p>3 Q. So you understand the ground rules, but</p> <p>4 I'll repeat just a couple of them to help us along</p> <p>5 the way today, okay?</p> <p>6 A. Okay.</p> <p>7 Q. So my questions will be verbal, and I ask</p> <p>8 that your answers be verbal as well so they can be</p> <p>9 recorded.</p> <p>10 A. Yes.</p> <p>11 Q. If you need a break at any time today,</p> <p>12 please just let me know, and we'll be happy to</p> <p>13 accommodate you.</p> <p>14 A. Thank you.</p> <p>15 Q. And if you don't understand one of my</p> <p>16 questions, please ask me to rephrase, or oftentimes,</p> <p>17 your counsel will ask that I rephrase as well.</p> <p>18 Okay?</p> <p>19 A. Thank you.</p> <p>20 MR. KLATT: And can I add that we have</p> <p>21 an agreement that an objection for one is good for</p> <p>22 all?</p> <p>23 MS. O'DELL: Yes.</p> <p>24 MR. KLATT: Okay. Fine.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. The -- I was --</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 MR. JAMES: Sure.</p> <p>4 MS. O'DELL: Just make sure . . .</p> <p>5 Q. (BY MR. JAMES) So you mentioned that you</p> <p>6 served as an expert one time in one --</p> <p>7 A. Right.</p> <p>8 Q. -- prior case, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Were you deposed in that case?</p> <p>11 A. Yes.</p> <p>12 Q. Were the other -- all of the other</p> <p>13 depositions taken in your capacity as a treating</p> <p>14 physician?</p> <p>15 A. Yes.</p> <p>16 Q. Have you been a defendant in any of those</p> <p>17 cases?</p> <p>18 A. No.</p> <p>19 Q. Are there any other depositions, other</p> <p>20 than the ones that we've just discussed, that you</p> <p>21 have given during your lifetime?</p> <p>22 A. I gave a deposition -- oh, I gave a</p> <p>23 testimony and a deposition once as -- I don't</p> <p>24 exactly know what I was. I'm -- fact, and as a</p>

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<p style="text-align: right;">Page 18</p> <p>1 patient at a hospital.</p> <p>2 Q. Were you a defendant in that case?</p> <p>3 A. No.</p> <p>4 Q. For this case, for the talc MDL, turning</p> <p>5 back to the talc MDL, where do the fees that you</p> <p>6 receive in this litigation, where do those fees go</p> <p>7 to?</p> <p>8 A. You mean come from?</p> <p>9 Q. Do you take -- do you receive those fees</p> <p>10 personally?</p> <p>11 A. Yes, I receive them personally.</p> <p>12 Q. You are currently employed, as we</p> <p>13 discussed, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Do you have any other sources of income</p> <p>16 besides the expert work that you're engaged in now</p> <p>17 and your current role for the hospice facility?</p> <p>18 A. I have several personal annuities.</p> <p>19 Q. Any other sources of income --</p> <p>20 A. No.</p> <p>21 Q. -- besides personal investments?</p> <p>22 A. No.</p> <p>23 Q. And you're charging \$600 per hour in this</p> <p>24 litigation, correct?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Correct.</p> <p>2 MR. JAMES: And counsel mentioned</p> <p>3 before the deposition that they have brought with</p> <p>4 them copies of the invoices in litigation.</p> <p>5 Could I have those, please.</p> <p>6 MS. O'DELL: Sure.</p> <p>7 MR. JAMES: Thank you.</p> <p>8 MS. O'DELL: I'm missing a last</p> <p>9 invoice. I'll get it to you on the break.</p> <p>10 MR. JAMES: Okay.</p> <p>11 And I'm gonna hand what counsel has --</p> <p>12 I'm gonna mark what counsel has handed me, the set</p> <p>13 of invoices, as Exhibit Number 1.</p> <p>14 (Deposition Exhibit 1 marked for</p> <p>15 identification.)</p> <p>16 Q. (BY MR. JAMES) And, again, Dr. Smith,</p> <p>17 these set of invoices that I was just handed will</p> <p>18 reflect the time that you've spent in this</p> <p>19 litigation through the end of December 2018,</p> <p>20 correct?</p> <p>21 A. When you get the last one, yes, it will.</p> <p>22 Q. Understood.</p> <p>23 And then we get an additional invoice</p> <p>24 for January, correct?</p>
<p style="text-align: right;">Page 19</p> <p>1 A. I am.</p> <p>2 Q. Is that a standard rate regardless of the</p> <p>3 sort of work you're performing?</p> <p>4 A. In this MDL?</p> <p>5 Q. Yes.</p> <p>6 A. Yes.</p> <p>7 Q. Yes, Doctor.</p> <p>8 A. Yes.</p> <p>9 Q. Can you quantify for us the number of</p> <p>10 hours you have spent working as an expert in this</p> <p>11 litigation?</p> <p>12 A. I -- I don't have it off the top of my</p> <p>13 head, but I know they have very clear time records.</p> <p>14 Q. Have you to date invoiced -- have you</p> <p>15 invoiced for all of the time that you've spent in</p> <p>16 the litigation to date?</p> <p>17 A. No.</p> <p>18 Q. Where do your invoices carry you through?</p> <p>19 A. December 31st. I have -- there is an</p> <p>20 invoice that I submitted December 31st that's not</p> <p>21 been paid yet. But I'm through the end of 2018.</p> <p>22 Q. And you'll be submitting an additional</p> <p>23 invoice for the time that you've spent in January,</p> <p>24 correct?</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Correct.</p> <p>2 Q. How much time have you spent in January on</p> <p>3 this litigation?</p> <p>4 MS. O'DELL: Just give your best</p> <p>5 estimate, if you don't . . .</p> <p>6 A. 20. 15 to 20.</p> <p>7 Q. (BY MR. JAMES) Can you break that time</p> <p>8 down for me, as far as what you've been doing during</p> <p>9 the month of January?</p> <p>10 Has it been preparing for the</p> <p>11 deposition, reviewing --</p> <p>12 A. Yes.</p> <p>13 Q. -- articles?</p> <p>14 I'm sorry. I --</p> <p>15 A. Sorry.</p> <p>16 Q. -- didn't finish the question --</p> <p>17 A. I'm sorry.</p> <p>18 Q. -- so let me rephrase it.</p> <p>19 Has all the time that you've spent in</p> <p>20 January been preparing for the deposition?</p> <p>21 A. Yes.</p> <p>22 Q. For the total time that you've spent as</p> <p>23 work for -- strike that.</p> <p>24 For the total time you've spent</p>

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<p style="text-align: right;">Page 22</p> <p>1 working in this litigation as an expert, can you</p> <p>2 give me a rough breakdown about the amount of time</p> <p>3 you've spent reviewing literature, reviewing company</p> <p>4 documents, and meeting with plaintiffs' counsel?</p> <p>5 A. The vast majority of time has -- can I do</p> <p>6 it in percentages?</p> <p>7 Q. That'd -- that would be fine.</p> <p>8 A. Okay. I would say 75 percent is reviewing</p> <p>9 medical literature, 20 percent is meeting with --</p> <p>10 maybe less than that. 15 percent is -- no.</p> <p>11 20 percent is meeting with plaintiffs' attorneys,</p> <p>12 and the remainder is reviewing other documents.</p> <p>13 Q. When you say "other documents," are you</p> <p>14 referring to company docket -- company documents and</p> <p>15 litigation materials you've been provided?</p> <p>16 A. Yes.</p> <p>17 Q. Have you discussed your involvement in</p> <p>18 this litigation with any of the other experts for</p> <p>19 the plaintiffs in the talc MDL?</p> <p>20 A. No.</p> <p>21 Q. And let me ask specifically about a few of</p> <p>22 the experts, if I may.</p> <p>23 Have you discussed this litigation at</p> <p>24 all with Alan Campion?</p>	<p style="text-align: right;">Page 24</p> <p>1 Mr. Campion about the litigation?</p> <p>2 A. Me.</p> <p>3 Q. And before you were retained as a</p> <p>4 litigation, did Ms. -- Ms. Thompson share with you</p> <p>5 any information about the litigation?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. I'm not sure I understand that question.</p> <p>8 Q. (BY MR. JAMES) What were the nature of</p> <p>9 the discussions before you were retained in this</p> <p>10 litigation with Ms. Thompson?</p> <p>11 A. She informed me that she was involved</p> <p>12 in --</p> <p>13 MS. O'DELL: Let's stop you right</p> <p>14 there. Dr. Smith, in terms of -- should have been</p> <p>15 quicker on my objection.</p> <p>16 In terms of discussions with kind of</p> <p>17 like Dr. Thompson, those are -- those discussions</p> <p>18 are protected by the work prod- -- product</p> <p>19 privilege, so I'm gonna instruct you not to answer</p> <p>20 about any discussions that you had with the lawyers</p> <p>21 for the plaintiffs.</p> <p>22 MR. JAMES: And that's -- just so I'm</p> <p>23 clear, that's regardless of whether the discussions</p> <p>24 were before she was retained or after she was</p>
<p style="text-align: right;">Page 23</p> <p>1 A. In terms of, "What are you doing?"</p> <p>2 "I'm reading articles," that kind of</p> <p>3 discussion.</p> <p>4 In terms of when he was going to --</p> <p>5 certainly in terms of when he was going out of town</p> <p>6 to do experiments, that kind of discussion.</p> <p>7 But I did give him an article once</p> <p>8 that I didn't understand some of the technology in</p> <p>9 it. And I asked him if he understood it, to read it</p> <p>10 and see if he could explain to me, and he couldn't.</p> <p>11 So I guess that's talking about too.</p> <p>12 Q. Do you recall the article in question?</p> <p>13 A. It was a lab study. I think it was Lee.</p> <p>14 Q. Did you discuss any other studies with</p> <p>15 Alan Campion?</p> <p>16 A. I don't believe so.</p> <p>17 Q. Have you discussed the substance of</p> <p>18 Campion's opinions with him?</p> <p>19 A. No.</p> <p>20 Q. What is your relationship with Alan</p> <p>21 Campion?</p> <p>22 A. He's my husband.</p> <p>23 Q. I understand.</p> <p>24 Did Ms. Thompson first contact you or</p>	<p style="text-align: right;">Page 25</p> <p>1 retained?</p> <p>2 MS. O'DELL: I think, in terms of the</p> <p>3 litigation when she billed for the time regarding</p> <p>4 those discussions, those are privileged. And -- and</p> <p>5 I believe if you'll look at the invoices, Dr. Smith</p> <p>6 has billed for all the time during which she's</p> <p>7 discussed the litigation.</p> <p>8 Q. (BY MR. JAMES) Did -- did you recommend</p> <p>9 to Mrs. Thompson that she also reach out to your</p> <p>10 husband?</p> <p>11 A. Yes.</p> <p>12 Q. And why did you do that?</p> <p>13 A. Leigh O'Dell said that --</p> <p>14 THE WITNESS: Oh, is that work</p> <p>15 product?</p> <p>16 MS. O'DELL: It is, but you can --</p> <p>17 just to the degree I -- I made a suggestion to you,</p> <p>18 but don't go any further than that. Go ahead.</p> <p>19 A. Yeah. Leigh O'Dell told me that the</p> <p>20 defense had recommended evaluation of particles by</p> <p>21 Raman spectroscopy.</p> <p>22 And I said, "Too bad we don't know</p> <p>23 anybody who does that."</p> <p>24 And Leigh and Dr. Thompson both said,</p>

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<p style="text-align: right;">Page 26</p> <p>1 "Yeah, it's too bad." 2 And I said, "My husband does that." I 3 thought they knew. 4 MS. O'DELL: That's the extent of any 5 disclosure, again, of communications with counsel. 6 THE WITNESS: Okay. 7 Q. (BY MR. JAMES) Did you refer Ms. Thompson 8 to any of the other experts who were working on the 9 MDL? 10 A. I did not. 11 Q. Do you understand that there are a number 12 of experts that are working on the MDL for the 13 plaintiffs that are located in Austin? 14 A. I know of one -- oh, I guess two. My 15 husband is one of them. 16 Q. Other than your husband -- 17 A. Yeah. 18 Q. -- do you know of any other experts who 19 are located in Austin? 20 A. One, yes. 21 Q. And who is that? 22 A. Judy Wolf. 23 Q. And do you know Dr. Wolf? 24 A. Yes, I do.</p>	<p style="text-align: right;">Page 28</p> <p>1 litigation? 2 A. No. 3 Q. Have you exchanged any other writings or 4 written materials about this litigation with any of 5 the other experts in this litigation? 6 A. No. 7 Q. How long have you known Dr. Wolf, did you 8 say? 9 A. Maybe 20 years. 10 Q. Did you reach out to her and encourage her 11 involvement in litigation? 12 A. I did not. 13 Q. Did she reach out to you to encourage your 14 involvement -- 15 A. She did not. 16 Q. -- in litigation? 17 THE COURT REPORTER: Doctor, let him 18 finish his whole question, please. 19 THE WITNESS: Yes, ma'am. I'm sorry. 20 Q. (BY MR. JAMES) Have you ever authored any 21 publications concerning talc? 22 A. No, sir. 23 Q. Have you ever authored any publications 24 concerning talc and ovarian cancer?</p>
<p style="text-align: right;">Page 27</p> <p>1 Q. Do you know here -- did you know her 2 before this litigation? 3 A. Oh, yes. 4 Q. Did you refer Ms. Thompson to her for this 5 litigation? 6 A. I did not. 7 Q. Do you know if Ms. Thompson contacted you 8 or -- or Dr. Wolf first? 9 A. I believe I was contacted first. 10 Q. Have you had any discussions with Dr. Wolf 11 about this litigation? 12 A. No. 13 Q. Have you had discussions with any of the 14 other plaintiffs' experts about this litigation 15 besides Alan Campion? 16 A. No. 17 Q. Are you familiar with a 18 Dr. Clarke-Pearson? 19 A. Very well. 20 Q. Have you had any discussions with 21 Dr. Clarke-Pearson about the litigation? 22 A. No. 23 Q. Have you exchanged any e-mails with any of 24 the experts, including your husband about this</p>	<p style="text-align: right;">Page 29</p> <p>1 A. No, sir. 2 Q. Have you ever authored any publications 3 concerning asbestos? 4 A. No, sir. 5 Q. Have you ever published a talc or asbestos 6 or risk factors for ovarian cancer? 7 A. No. 8 Q. Have you ever conducted any studies that 9 pertain to the issues addressed in your report? 10 MS. O'DELL: Object to the form. 11 A. I am -- 12 THE WITNESS: Can I answer it? 13 MS. O'DELL: Yes. 14 A. I am -- 15 Q. (BY MR. JAMES) May I just rephrase? 16 A. Sure. 17 Q. Have you ever conducted any studies 18 pertaining to the allegation that talc causes 19 ovarian cancer? 20 A. No. 21 Q. Do you -- are you working on any articles 22 that pertain to the issues in this litigation that 23 you consider works in progress? 24 A. No.</p>

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<p style="text-align: right;">Page 30</p> <p>1 Q. Do you have any plans to author or</p> <p>2 contribute to any articles that pertain to the</p> <p>3 issues in this litigation?</p> <p>4 A. No.</p> <p>5 Q. Have you submitted the substance or any --</p> <p>6 any substance in your report to a journal for peer</p> <p>7 review?</p> <p>8 A. No.</p> <p>9 Q. Have you made any internet postings, blog</p> <p>10 postings, or other social media postings about the</p> <p>11 issues in this litigation?</p> <p>12 A. No.</p> <p>13 Q. Have you ever given any presentations,</p> <p>14 speeches, or lectures concerning talc and ovarian</p> <p>15 cancer?</p> <p>16 A. No.</p> <p>17 Q. The same question for asbestos and ovarian</p> <p>18 cancer.</p> <p>19 A. No.</p> <p>20 Q. Have you ever given any interviews or made</p> <p>21 any public statements concerning talc?</p> <p>22 A. No.</p> <p>23 Q. Concerning talc or ovarian cancer?</p> <p>24 A. No.</p>	<p style="text-align: right;">Page 32</p> <p>1 A. Not to my recall.</p> <p>2 Q. Have you ever asked your patients about</p> <p>3 their usage of talcum powder products in taking</p> <p>4 their medical histories?</p> <p>5 A. No.</p> <p>6 Q. And same question: Have you asked -- it's</p> <p>7 not the same question. Let me strike that.</p> <p>8 Have you ever asked your patients</p> <p>9 about their exposure to asbestos in the course of</p> <p>10 taking their medical histories?</p> <p>11 A. No.</p> <p>12 Q. Have you discussed the opinions that</p> <p>13 you've rendered in your report concerning talc and</p> <p>14 ovarian cancer with any of your patients?</p> <p>15 A. No.</p> <p>16 Q. And have you discussed with any of your</p> <p>17 patients the opinions that you've rendered in your</p> <p>18 report concerning asbestos or other alleged</p> <p>19 constituents of talcum powder products?</p> <p>20 A. No.</p> <p>21 Q. Have you ever told any of your patients to</p> <p>22 stop using talcum powder products?</p> <p>23 A. No.</p> <p>24 Q. Have you ever cautioned any of your</p>
<p style="text-align: right;">Page 31</p> <p>1 Q. And concerning asbestos and ovarian</p> <p>2 cancer?</p> <p>3 A. No.</p> <p>4 Q. Have you ever counseled patients on risk</p> <p>5 factors for ovarian cancer?</p> <p>6 A. Yes.</p> <p>7 Q. What risk factors have you counseled your</p> <p>8 patients on?</p> <p>9 A. Predominantly BRCA, Fanconi anemia pathway</p> <p>10 risk factors.</p> <p>11 Q. And when you say "predominantly," are</p> <p>12 there any other risk factors for ovarian cancer that</p> <p>13 you've counseled your patients on?</p> <p>14 A. No.</p> <p>15 Q. Have you ever told a patient that talcum</p> <p>16 powder products was the cause or were the cause of</p> <p>17 their ovarian cancers?</p> <p>18 A. No.</p> <p>19 Q. Have you ever told a patient that talcum</p> <p>20 powder products was likely the cause of their</p> <p>21 ovarian cancer?</p> <p>22 A. No.</p> <p>23 Q. Have you ever asked any of your patients</p> <p>24 about their usage of talcum powder products?</p>	<p style="text-align: right;">Page 33</p> <p>1 patients about using talcum powder products?</p> <p>2 A. No.</p> <p>3 Q. Have you ever evaluated the personal risk</p> <p>4 of a patient for developing ovarian cancer based</p> <p>5 upon their history of usage of talcum powder</p> <p>6 products?</p> <p>7 A. No.</p> <p>8 Q. Have you ever recommended risk-reducing</p> <p>9 surgery on the basis of any of your patients' prior</p> <p>10 usage of talcum powder products?</p> <p>11 A. No.</p> <p>12 Q. Are you aware of any physicians who</p> <p>13 recommend risk-reducing surgery for patients with a</p> <p>14 history of usage of talcum powder products?</p> <p>15 A. There is a published paper using use of</p> <p>16 talcum powder as one of the risk factors for doing</p> <p>17 oophorectomy and benign disease, but I didn't write</p> <p>18 that paper.</p> <p>19 Q. Let me ask the question again. Just make</p> <p>20 sure I said it correctly.</p> <p>21 A. Okay.</p> <p>22 Q. Are you aware of any physicians that you</p> <p>23 know that recommend risk-reducing surgery to</p> <p>24 patients who have prior -- a history of usage of</p>

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<p style="text-align: right;">Page 34</p> <p>1 talcum powder products?</p> <p>2 A. No.</p> <p>3 MS. O'DELL: Object to the form. I</p> <p>4 think the question, Mr. James, is just a little</p> <p>5 unclear. When you say "you know," are you talking</p> <p>6 about know of, know personally --</p> <p>7 MR. JAMES: Sure.</p> <p>8 MS. O'DELL: -- in the community? I</p> <p>9 mean --</p> <p>10 MR. JAMES: Sure. I'll rephrase.</p> <p>11 Q. (BY MR. JAMES) Do you know any physicians</p> <p>12 with whom you have a professional relationship who</p> <p>13 recommend risk-reducing surgery for patients who</p> <p>14 have a prior history of usage of talcum powder</p> <p>15 products?</p> <p>16 A. No.</p> <p>17 Q. You mentioned a paper in the course of --</p> <p>18 of this line of questioning.</p> <p>19 Do you recall the name of the paper</p> <p>20 that you're referring to?</p> <p>21 A. The first author, it starts with a V,</p> <p>22 V-i-t. And the third author is Cramer. And it's</p> <p>23 some --</p> <p>24 Q. Did you say V-i-d, Doctor? I'm sorry.</p>	<p style="text-align: right;">Page 36</p> <p>1 A. I understand that.</p> <p>2 Q. And Dr. Cramer is one of the authors that</p> <p>3 you identified as an author on the paper that you</p> <p>4 were just discussing, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Have you ever recommended increased</p> <p>7 screening or monitoring for your patients for</p> <p>8 ovarian cancer based on their prior usage of talcum</p> <p>9 powder products?</p> <p>10 A. No, I have not.</p> <p>11 Q. Are you aware of any physicians with whom</p> <p>12 you have a professional relationship who do this?</p> <p>13 A. No.</p> <p>14 Q. Have you ever recommended to any doctors</p> <p>15 that you know professionally to tell their patients</p> <p>16 to stop using talcum powder products?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Who is that?</p> <p>19 A. Which doctors I've recommended that to?</p> <p>20 Q. Yes, Doctor.</p> <p>21 A. Well, I didn't tell them to do it. I told</p> <p>22 them my concerns about talc, but I thought it was</p> <p>23 implicit in expressing my concerns that they would</p> <p>24 counsel their patients. I didn't tell -- I didn't</p>
<p style="text-align: right;">Page 35</p> <p>1 A. V as in Valentine. V- -- I can't spell</p> <p>2 the name. I can't remember the first name.</p> <p>3 The third author is Daniel Cramer, and</p> <p>4 it was published in 2011 or 2013, and it's -- it's a</p> <p>5 paper about a risk scoring system to recommend</p> <p>6 oophorectomy in women who are undergoing</p> <p>7 hysterectomy, trying to establish their risk of</p> <p>8 ovarian cancer. One of such factors is talcum</p> <p>9 powder use.</p> <p>10 Q. And do you recall if that paper recommends</p> <p>11 that physicians recommend to their patients</p> <p>12 risk-reducing surgery if they have prior history of</p> <p>13 talcum powder product usage?</p> <p>14 A. That is not an exclusive factor in that</p> <p>15 risk assessment system.</p> <p>16 Q. Are you aware of any medical or scientific</p> <p>17 organization that has recommended risk-reducing</p> <p>18 surgery for patients who report prior usage of</p> <p>19 talcum powder products?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. I am not.</p> <p>22 Q. (BY MR. JAMES) Do you understand that</p> <p>23 Dr. Cramer is a paid litigation expert for the</p> <p>24 plaintiffs?</p>	<p style="text-align: right;">Page 37</p> <p>1 tell the doctors to do a lot of things.</p> <p>2 Q. Understood.</p> <p>3 A. Okay.</p> <p>4 Q. And can you identify any of the doctors</p> <p>5 with whom you've had those conversations?</p> <p>6 A. Yes.</p> <p>7 Q. And please identify them.</p> <p>8 A. Karen Swenson, Michael Breen, Anna Lozano.</p> <p>9 Q. And are those physicians that you know</p> <p>10 here in the Austin community?</p> <p>11 A. Yes.</p> <p>12 Q. Are there any other physicians with whom</p> <p>13 you've discussed your concerns of talcum powder</p> <p>14 products?</p> <p>15 A. Mark Crozier is a GYN, gynecologist, but</p> <p>16 he's no longer practicing. He's retired.</p> <p>17 Q. And do you know if the three physicians</p> <p>18 that you've just identified do now indeed counsel</p> <p>19 their patients about talcum powder products?</p> <p>20 A. I do not know.</p> <p>21 Q. Did you have those conversations with</p> <p>22 those three physicians before your retention in the</p> <p>23 litigation or after?</p> <p>24 A. After.</p>

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<p>1 Q. Have you recommended to those three 2 physicians or any other physicians that they 3 recommend to their patients risk-reducing surgery if 4 they have prior usage of talcum powder products? 5 A. No. 6 Q. Have you suggested to those three 7 physicians or any other physicians that they follow 8 some sort of increased monitoring or screening of 9 patients based upon prior usage of talcum powder 10 products? 11 A. No. 12 Q. I'm going to hand you a copy of the 13 deposition notice, which is why we're all here 14 today. And I'm gonna mark that as Exhibit Number 2. 15 (Deposition Exhibit 2 marked for 16 identification.) 17 MS. O'DELL: Thanks, Scott. 18 MR. JAMES: Yeah. 19 BY MS. O'DELL: We previously served 20 objections, and I'll just -- to certain document 21 requests that are contained in the notice, and I 22 would just reassert those now for the record. 23 MR. JAMES: Understood. 24 Q. (BY MR. JAMES) Dr. Smith, have you seen a</p>	<p>1 Q. And you've also brought with you a 2 separate pile of -- a smaller set of studies or 3 literature that you have included some notes on, 4 correct? 5 A. Correct. 6 Q. And without getting up and moving around 7 right now, I would like to mark the subset pile as 8 Exhibit Number 3. 9 MR. JAMES: Okay, Leigh? 10 MS. O'DELL: Yeah. 11 (Deposition Exhibit 3 marked for 12 identification.) 13 Q. (BY MR. JAMES) And we'll apply the 14 sticker at the break. Okay? 15 Dr. Smith, are there any other 16 materials that -- that you've brought with you today 17 that we have not discussed? 18 A. No. 19 Q. Are there any other materials that -- that 20 having looked back at this deposition notice today, 21 that you can think of that are responsive that you 22 have not brought with you? 23 A. No. 24 MS. O'DELL: I say that subject to the</p>
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<p>1 copy of this deposition notice before? 2 A. Yes. 3 Q. And when were you pro- -- when were you 4 provided a copy? 5 A. Saturday or Sunday -- this past Saturday 6 or Sunday. 7 Q. And I understand that you and your counsel 8 have brought with you to today's deposition a number 9 of materials, correct? 10 A. Correct. 11 Q. And we've discussed and marked the 12 invoices already. And so Ms. O'Dell is looking 13 toward a table with other materials that I'll 14 describe. 15 Are those the materials that you've 16 brought with you that respond to the deposition 17 notice? 18 A. Yes, sir. 19 Q. And Ms. O'Dell and I discussed prior to 20 the deposition, but the materials that you've 21 brought with your -- with you today to today's 22 deposition are your materials considered in your 23 references, correct? 24 A. Correct.</p>	<p>1 objections. 2 MR. JAMES: Understood. 3 Q. (BY MR. JAMES) Okay. I'm going to hand 4 you, Dr. Smith, what you have in front of you 5 already, and I'm going to mark as Exhibit Number 4 a 6 copy of the report that you authored in this 7 litigation. 8 (Deposition Exhibit 4 marked for 9 identification.) 10 Q. (BY MR. JAMES) And, Dr. Smith, I'm gonna 11 hand you the -- the stickered copy, but I understand 12 that you have an identical copy in front of you, 13 correct? 14 A. Correct. 15 Q. And if throughout the deposition today you 16 prefer to flip it in the loose-leaf binder, that's 17 fine as well. Okay? 18 A. Okay. May I -- 19 MS. O'DELL: Just leave it there. 20 A. May I point out a couple of corrections 21 for that, because I've only recently -- 22 MS. O'DELL: Dr. Smith, you certainly 23 may, but let him ask you the questions. 24 Q. (BY MR. JAMES) Yeah. I'm actually going</p>

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<p>1 to ask you that question, so you'll have a chance</p> <p>2 to.</p> <p>3 A. Okay.</p> <p>4 MR. JAMES: And if counsel, down the</p> <p>5 line throughout the day, has any requests of copies</p> <p>6 of anything I'm handing out, just let me know. I</p> <p>7 have some.</p> <p>8 Q. (BY MR. JAMES) Okay. Dr. Smith, you</p> <p>9 would agree that the report that I've handed you and</p> <p>10 marked as Exhibit Number 4 defines the scope of your</p> <p>11 opinions in this litigation --</p> <p>12 A. Yes.</p> <p>13 Q. -- correct?</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 Excuse me. I was a little off the mark.</p> <p>16 MR. JAMES: Okay.</p> <p>17 Q. (BY MR. JAMES) Dr. Smith, do you have any</p> <p>18 changes to this report that you'd like to make</p> <p>19 today?</p> <p>20 A. Yes.</p> <p>21 Q. And what are those changes?</p> <p>22 A. There is deficient of second parenthesis,</p> <p>23 and I'm trying to figure out where it is in here.</p> <p>24 Let me go to more substantive things.</p>	<p>1 report?</p> <p>2 A. I did.</p> <p>3 Q. Is all of the wording in this report your</p> <p>4 wording?</p> <p>5 A. Yes.</p> <p>6 Q. Did you consult with Dr. Wolf in writing</p> <p>7 your report?</p> <p>8 A. I did not.</p> <p>9 Q. Did you meet with Dr. Wolf in writing your</p> <p>10 report?</p> <p>11 A. I did not.</p> <p>12 Q. I'm gonna mark as Exhibit Number 5 a copy</p> <p>13 of Dr. Wolf's report in this litigation.</p> <p>14 (Deposition Exhibit 5 marked for</p> <p>15 identification.)</p> <p>16 Q. (BY MR. JAMES) Dr. Smith, have you seen</p> <p>17 this report before?</p> <p>18 A. No.</p> <p>19 MR. JAMES: I apologize to -- to</p> <p>20 counsel and to you, Dr. Smith. I have a bad back</p> <p>21 which prevents me from leaning too --</p> <p>22 A. That's okay.</p> <p>23 Q. -- further -- too far forward.</p> <p>24 Dr. Smith, at first I'd like you to</p>
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<p>1 On page 7 where it says, "A Cancer</p> <p>2 Genome," second paragraph. Do you know where I am,</p> <p>3 page 7, second paragraph?</p> <p>4 Q. Yes. Yes, Doctor.</p> <p>5 A. It should be "The Cancer Genome Atlas,"</p> <p>6 not "A Cancer Genome Atlas."</p> <p>7 Do you want me to mark it on here?</p> <p>8 Q. It's fine.</p> <p>9 A. Okay. And then on the chart labeled on</p> <p>10 Exhibit B the single gene studies, on the second</p> <p>11 page, the back page under Wu, 2015, the fourth</p> <p>12 column, 1.56.</p> <p>13 Are you with me?</p> <p>14 Q. Yes, Doctor.</p> <p>15 A. That 1.56 and 1.77 are inverted. The 1.77</p> <p>16 should go with Hispanics as is the confidence</p> <p>17 intervals. The 1.56 should go with</p> <p>18 African-Americans, as does that conference</p> <p>19 intervals, just a transposition.</p> <p>20 Q. Are there any other changes to the report</p> <p>21 that you'd like to make today?</p> <p>22 A. Well, I haven't found the parentheses yet,</p> <p>23 but you'll figure it out when you see it.</p> <p>24 Q. Okay. Dr. Smith, did you write this</p>	<p>1 pull out your report.</p> <p>2 A. Um-hum.</p> <p>3 Q. And I'd like you to turn to page 16 of</p> <p>4 your report, please.</p> <p>5 A. (Complied.) Um-hum.</p> <p>6 Q. And if you look down at the one, two,</p> <p>7 three, fourth full paragraph.</p> <p>8 A. Um-hum.</p> <p>9 Q. Actually, it's the -- when I say "full,"</p> <p>10 it's the third full paragraph. It's the paragraph</p> <p>11 that starts with "In my opinion."</p> <p>12 A. Um-hum.</p> <p>13 Q. Do you see that paragraph?</p> <p>14 A. Um-hum.</p> <p>15 Q. If you look at that last sentence of that</p> <p>16 paragraph -- I'm gonna read and make sure I read it</p> <p>17 correctly.</p> <p>18 It says, quote, "All of the cohort</p> <p>19 studies are limited by failure to obtain complete</p> <p>20 information, lack of power, selection bias, and</p> <p>21 short follow-up," close quotes.</p> <p>22 Did I read that correctly?</p> <p>23 A. Yes.</p> <p>24 Q. And if you could turn, then, to Dr. Wolf's</p>

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<p>1 report, please.</p> <p>2 A. What page?</p> <p>3 Q. And I'm looking at page 8 of Dr. Wolf's</p> <p>4 report. And it's second full paragraph, so it's the</p> <p>5 second section on that page. I'm gonna quote a page</p> <p>6 of Dr. Wolf's report here.</p> <p>7 A. (Complied.) Um-hum.</p> <p>8 Q. Okay. It's the sentence that starts with</p> <p>9 the word "All."</p> <p>10 Do you see where I am?</p> <p>11 A. Um-hum.</p> <p>12 Q. Okay. It says, quote, "All of the cohort</p> <p>13 study are limited by lack of power, failure to make</p> <p>14 the appropriate queries, selection bias, and short</p> <p>15 follow-up," close quote.</p> <p>16 A. Um-hum.</p> <p>17 Q. Do you see that section that I read?</p> <p>18 A. I do.</p> <p>19 Q. And did I read that correctly?</p> <p>20 A. You did.</p> <p>21 Q. Do you agree that those two sentences are</p> <p>22 remarkably similar?</p> <p>23 A. They are similar.</p> <p>24 Q. And is your testimony that the wording in</p>	<p>1 Q. Okay. And if you look at page -- if you</p> <p>2 can turn to Dr. Wolf's report, please.</p> <p>3 A. Um-hum.</p> <p>4 Q. Okay. If you turn to Dr. Wolf's report on</p> <p>5 page 8 --</p> <p>6 A. Um-hum.</p> <p>7 Q. -- it's the bottom paragraph.</p> <p>8 A. (Complied.)</p> <p>9 Q. And Dr. Wolf starts a paragraph with the</p> <p>10 same phraseology. She says, quote, "When looking at</p> <p>11 epidemiological studies."</p> <p>12 Do you see where I'm reading?</p> <p>13 A. Um-hum.</p> <p>14 Q. And have you had a chance to review her</p> <p>15 paragraph there?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. (Examined exhibit.) I do.</p> <p>18 Q. (BY MR. JAMES) Okay. Would you agree</p> <p>19 that those two paragraphs are remarkably similar?</p> <p>20 A. I'm not --</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. -- quite through that.</p> <p>23 Q. (BY MR. JAMES) Please take your time.</p> <p>24 I'm sorry.</p>
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<p>1 your report is purely your wording?</p> <p>2 A. It is.</p> <p>3 Q. All right. If you could turn back to your</p> <p>4 report, please, Dr. Smith, on page 16.</p> <p>5 A. (Complied.) I'm on 16. Okay.</p> <p>6 Q. Okay. And if we look down, it's the --</p> <p>7 it's the paragraph below the paragraph that we just</p> <p>8 read. It starts with the "When looking" phrase.</p> <p>9 Do you see --</p> <p>10 A. Um-hum.</p> <p>11 Q. -- where I am?</p> <p>12 A. Um-hum.</p> <p>13 Q. Okay. And if you look at that paragraph,</p> <p>14 Dr. Smith, on page 16, that full paragraph.</p> <p>15 A. Um-hum.</p> <p>16 Q. If you could read that to yourself right</p> <p>17 now, please.</p> <p>18 A. Okay. (Examined exhibit.)</p> <p>19 Q. And it's the paragraph that starts with</p> <p>20 the phrase "When looking at epidemiological</p> <p>21 studies."</p> <p>22 A. Um-hum.</p> <p>23 Q. And have you had a chance to read that?</p> <p>24 A. I have.</p>	<p>1 A. (Examined exhibit.) They're similar. I</p> <p>2 think it's because we looked at the same data.</p> <p>3 Q. And, Dr. Smith, within that paragraph, I'm</p> <p>4 gonna call your attention to two specific sentences.</p> <p>5 So I'm looking back at your report,</p> <p>6 Dr. Smith, and you say, quote -- in your report,</p> <p>7 quote, "Recall and confounding bias in case-control</p> <p>8 studies appear to have minimal impact."</p> <p>9 A. Um-hum.</p> <p>10 Q. "(Penninkilampi and Eslick 2018;" --</p> <p>11 A. Um-hum.</p> <p>12 Q. -- "Langseth 2008)."</p> <p>13 A. Um-hum.</p> <p>14 Q. "There appears to be no significant</p> <p>15 publication bias."</p> <p>16 A. Um-hum.</p> <p>17 Q. "(Berge, 2017;" --</p> <p>18 A. Um-hum.</p> <p>19 Q. -- "Penninkilampi 2018)," close --</p> <p>20 A. Um-hum.</p> <p>21 Q. -- quote.</p> <p>22 Did I read that correctly?</p> <p>23 A. You did.</p> <p>24 Q. And do you see that in Dr. Wolf's report</p>

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<p>1 she has those exact same sentences verbatim?</p> <p>2 A. Yes.</p> <p>3 Q. And, again, is your testimony that the</p> <p>4 wording in this report is your wording?</p> <p>5 A. It is my wording.</p> <p>6 Q. Okay. Dr. Smith, if you could look at</p> <p>7 page 7 of your report. If you look at the bottom</p> <p>8 paragraph, about halfway down through that</p> <p>9 paragraph, Dr. Smith, you state the following --</p> <p>10 A. Page 7?</p> <p>11 Q. Yes, Dr. Smith.</p> <p>12 A. Okay.</p> <p>13 Q. It's the last paragraph on that page,</p> <p>14 right above the visuals.</p> <p>15 A. (Complied.) Um-hum.</p> <p>16 Q. Do you see the sentence that starts with</p> <p>17 the word "binding"? "Binding of BCDX2 or CX3," it's</p> <p>18 a Holliday Junction.</p> <p>19 Do you see where I'm reading?</p> <p>20 A. Um-hum.</p> <p>21 Q. And if I kept rea- -- if I keep reading,</p> <p>22 that sentence ends with a citation to the Compton</p> <p>23 2010 study.</p> <p>24 Do you see that?</p>	<p>1 A. I think it's allowable.</p> <p>2 Q. (BY MR. JAMES) Are there any other</p> <p>3 passages in your report that you can recall that you</p> <p>4 would have written verbatim but not quoted? Excuse</p> <p>5 me, strike that.</p> <p>6 Are there any other passages in your</p> <p>7 report that you have cited to a source and included</p> <p>8 text verbatim from that source --</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 Q. (BY MR. JAMES) -- that you did not put in</p> <p>11 quotations?</p> <p>12 MS. O'DELL: Excuse me. Object to the</p> <p>13 form.</p> <p>14 A. I don't remember any.</p> <p>15 Q. (BY MR. JAMES) Okay. Dr. Smith, with</p> <p>16 your expert report you produced a copy of your CV.</p> <p>17 A. Yes.</p> <p>18 Q. Correct?</p> <p>19 A. Yes.</p> <p>20 Q. Since providing your counsel with a copy</p> <p>21 of the CV that was then provided to me, have there</p> <p>22 been any changes to your CV?</p> <p>23 A. No.</p> <p>24 Q. I'm gonna mark the CV, then, that was</p>
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<p>1 A. Um-hum.</p> <p>2 Q. Is that wording in that sentence your</p> <p>3 wording or is that quoted from the article?</p> <p>4 A. It's quoted from the article, I believe.</p> <p>5 By -- that's why it's referenced.</p> <p>6 Q. Oh, understood. Is that what you were</p> <p>7 referring to earlier as something that was missing a</p> <p>8 quote?</p> <p>9 A. No. No, it's not a quo- -- I -- what I</p> <p>10 was referring to is there's missing a back half of a</p> <p>11 parenthesis in the text.</p> <p>12 Q. Do you agree that if you're quoting</p> <p>13 verbatim from one of the sources that you cite that</p> <p>14 you should include quotations in your report?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. I'm not sure that's necessary in a</p> <p>17 scientific paper. I think the importance is it's</p> <p>18 cited.</p> <p>19 Q. (BY MR. JAMES) You submitted articles to</p> <p>20 peer-reviewed journals before, correct?</p> <p>21 A. I have.</p> <p>22 Q. And your understanding is that if -- if</p> <p>23 something is cited without quotes that's standard?</p> <p>24 MS. O'DELL: Object to the form.</p>	<p>1 produced to the defendants as Exhibit Number 6.</p> <p>2 (Deposition Exhibit 6 marked for</p> <p>3 identification.)</p> <p>4 Q. (BY MR. JAMES) I'm gonna hand you a copy,</p> <p>5 Dr. Smith. Sorry again for the --</p> <p>6 A. That's okay.</p> <p>7 Q. -- throwing.</p> <p>8 MS. O'DELL: If you just hand them to</p> <p>9 me, I'll be glad to hand them over.</p> <p>10 MR. JAMES: Thank you so much.</p> <p>11 Q. (BY MR. JAMES) And, again, Dr. Smith,</p> <p>12 this is your current CV that you're looking at, is</p> <p>13 Exhibit Number 6?</p> <p>14 A. (Examined exhibit.) Yes, it is.</p> <p>15 Q. Thank you. Okay.</p> <p>16 In your report, Dr. Smith, you</p> <p>17 describe the methodology that you've conducted to</p> <p>18 collect the materials that you reviewed, correct?</p> <p>19 A. Correct.</p> <p>20 Q. And I see you're still looking at your CV,</p> <p>21 so I don't intend to rush you.</p> <p>22 A. That's okay. It's fine.</p> <p>23 Q. And so I am -- I'm not gonna ask you any</p> <p>24 further questions about the CV if you want to set</p>

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<p>1 that aside.</p> <p>2 A. Oh, okay. (Complied.) Okay.</p> <p>3 Q. I'm gonna turn to your report now.</p> <p>4 A. Okay.</p> <p>5 MS. O'DELL: Yeah, just -- we can</p> <p>6 maybe stack -- thank you.</p> <p>7 Q. (BY MR. JAMES) The searches that you ran</p> <p>8 to capture the materials that you reviewed for</p> <p>9 purposes of forming your litigation opinions, had</p> <p>10 you run those searches before being retained as an</p> <p>11 expert in this litigation?</p> <p>12 A. No.</p> <p>13 Q. Had you read any of the studies that you</p> <p>14 cite in your report before being retained in the</p> <p>15 litigation?</p> <p>16 A. Yes.</p> <p>17 Q. Is there a way for you to delineate which</p> <p>18 studies that you reviewed before your retention and</p> <p>19 which studies you reviewed after?</p> <p>20 A. I know I'd seen Cramer 82.</p> <p>21 Do you want me to go through my</p> <p>22 references list and try to identify which one I've</p> <p>23 seen before?</p> <p>24 Q. Well, we understand that the reference</p>	<p>1 any of the studies that are listed in your</p> <p>2 references or materials considered lists?</p> <p>3 A. Yes.</p> <p>4 Q. Is there any way for you to delineate</p> <p>5 which studies were provided to you by plaintiffs'</p> <p>6 counsel and which ones that you found on your own?</p> <p>7 A. Frequently I would provide them an</p> <p>8 abstract asking for full text, so that happened a</p> <p>9 lot. There were some that they sent to me as these</p> <p>10 studies were coming out in e-Pubs, e-publication,</p> <p>11 prior to print publication. I could go through,</p> <p>12 and, again, try to mark those.</p> <p>13 Q. Would you have in your possession records</p> <p>14 that would help you come up with a list of what was</p> <p>15 provided to you versus what you found on your own?</p> <p>16 A. No, but, like, I know that things that</p> <p>17 came out in '17 and '18 usually they got before I</p> <p>18 did.</p> <p>19 Q. And those are the prepub versions you were</p> <p>20 just mentioning?</p> <p>21 A. Right. They usually weren't</p> <p>22 prepublication. They were usually peer --</p> <p>23 Q. You said e-Pub?</p> <p>24 A. Yeah. e-Pub.</p>
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<p>1 list is -- is lengthy, correct?</p> <p>2 A. It is.</p> <p>3 Q. Do you think that you're looking for a</p> <p>4 handful of articles or a larger set of articles that</p> <p>5 you saw before your retention?</p> <p>6 A. I would say it's larger than that on these</p> <p>7 references, yes.</p> <p>8 Q. Okay. And so rather than us take the time</p> <p>9 to do that now, Dr. Smith, sitting here today, is</p> <p>10 there any way for you to delineate or define which</p> <p>11 ones you reviewed before being retained?</p> <p>12 A. Do I --</p> <p>13 MS. O'DELL: Object to the -- excuse</p> <p>14 me. Object to the form.</p> <p>15 I think she just -- she's willing to</p> <p>16 do that, if you want her to go through the list,</p> <p>17 but --</p> <p>18 A. Or I can put a check on them, if you want.</p> <p>19 Q. (BY MR. JAMES) Let's not do that right</p> <p>20 now. How about that?</p> <p>21 A. Okay.</p> <p>22 Q. And then we'll think about how we approach</p> <p>23 that.</p> <p>24 Did plaintiffs' counsel provide you</p>	<p>1 Q. My apologies.</p> <p>2 A. Yeah, that didn't have a citation, right.</p> <p>3 Q. In your report under the Methodology</p> <p>4 section, Dr. Smith, you say that you, "Began with a</p> <p>5 comprehensive review of the medical literature," and</p> <p>6 then you use the phraseology, "ON many topics."</p> <p>7 Is that -- do you recall using that</p> <p>8 phraseology? It's at page 2.</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. (Examined exhibit.) I'm looking for -- it</p> <p>11 says --</p> <p>12 Q. (BY MR. JAMES) It's the first sentence,</p> <p>13 Doctor -- it's the second sentence, Dr. Smith.</p> <p>14 A. Then I read many of the references of the</p> <p>15 articles cited in those papers. I didn't see many</p> <p>16 topics.</p> <p>17 Q. Sure. So in the second sentence -- and</p> <p>18 I -- my questioning is probably unnecessarily</p> <p>19 confusing.</p> <p>20 But in the second sentence under</p> <p>21 Methodology, you say that you relied on PubMed</p> <p>22 searches on many topics.</p> <p>23 Do you see that?</p> <p>24 A. Oh, that. Okay. Oh, that was the second</p>

15 (Pages 54 to 57)

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<p style="text-align: right;">Page 58</p> <p>1 sentence. Sorry, I was off by one. Yes.</p> <p>2 Q. And -- and then later on you just</p> <p>3 mentioned, Dr. Smith, you note in this paragraph</p> <p>4 that you also looked at the references of the</p> <p>5 articles --</p> <p>6 A. Right.</p> <p>7 Q. -- and conducted some additional Google</p> <p>8 searching, correct?</p> <p>9 A. Correct.</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 Q. (BY MR. JAMES) When you refer to the</p> <p>12 "many topics" there, can you define what many topics</p> <p>13 you are referring to?</p> <p>14 A. Sometimes you find different -- when</p> <p>15 you're using a search engine, even in PubMed, if you</p> <p>16 put in -- put it in one way and it looks like talc</p> <p>17 and ovarian cancer, then you put it in ovarian</p> <p>18 cancer, and talc you may get deferences on how you</p> <p>19 go back. Inflammation in carcinogenesis. Then you</p> <p>20 look at inflammation and ovarian cancer.</p> <p>21 So just, if you word it differently,</p> <p>22 you can pick up different references, and they come</p> <p>23 out in different order sometimes. So it's -- when</p> <p>24 you're looking for everything, you need to, kind of,</p>	<p style="text-align: right;">Page 60</p> <p>1 MS. O'DELL: Object to the form.</p> <p>2 A. I would agree with that.</p> <p>3 Q. (BY MR. JAMES) You agree that --</p> <p>4 THE WITNESS: Am I supposed to wait,</p> <p>5 Laurel [sic]?</p> <p>6 MS. O'DELL: Just give me just a --</p> <p>7 just a second.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MS. O'DELL: I'll try to be quicker on</p> <p>10 the draw.</p> <p>11 THE WITNESS: Okay.</p> <p>12 Q. (BY MR. JAMES) Do you agree that doing</p> <p>13 that is a fundamental first step to your</p> <p>14 methodology?</p> <p>15 A. I do.</p> <p>16 Q. Would you agree that any opinion formed on</p> <p>17 an incomplete review of the relevant scientific and</p> <p>18 medical literature on a particular topic would be</p> <p>19 unreliable?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. Not necessarily. Not necessarily.</p> <p>22 Q. (BY MR. JAMES) And why do you say that?</p> <p>23 A. I mean, if you miss -- if a person misses</p> <p>24 one article but has a substantial amount of the</p>
<p style="text-align: right;">Page 59</p> <p>1 mix it up and say it different ways to try to find</p> <p>2 all the articles.</p> <p>3 Q. For every topic that you looked at, did</p> <p>4 you conduct a comprehensive review for the</p> <p>5 underlying scientific and medical literature?</p> <p>6 A. Yes.</p> <p>7 Q. So every topic that you've addressed in</p> <p>8 your paper was a critical component of your meth- --</p> <p>9 methodology to conduct a comprehensive review and</p> <p>10 capture all of the relevant and scientific -- the</p> <p>11 relevant scientific and medical literature?</p> <p>12 A. That --</p> <p>13 MS. O'DELL: Object to the form. Give</p> <p>14 me --</p> <p>15 A. That was --</p> <p>16 MS. O'DELL: Excuse me. Just give me</p> <p>17 just a second, and I'll get my obj- -- object to</p> <p>18 the form. Thank you.</p> <p>19 A. That was my attempt.</p> <p>20 Q. (BY MR. JAMES) Do you agree that prior to</p> <p>21 offering expert opinions on particular topics an</p> <p>22 expert should be expected to conduct a con- --</p> <p>23 comprehensive review of the scientific and medical</p> <p>24 literature on that topic?</p>	<p style="text-align: right;">Page 61</p> <p>1 information required, they can reach the right</p> <p>2 conclusion and have not read one article.</p> <p>3 Q. Then do you -- again, do you agree that</p> <p>4 the methodology to opine on a particular topic</p> <p>5 should start with the intent to capture the relevant</p> <p>6 scientific and medical literature on that topic?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. I agree.</p> <p>9 Q. (BY MR. JAMES) Do you believe that you</p> <p>10 conducted a comprehensive review in the manner that</p> <p>11 we just described on the topic of heavy metals and</p> <p>12 ovarian cancer?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. No.</p> <p>15 Q. (BY MR. JAMES) Do you believe that you</p> <p>16 followed the methodology that we just described on</p> <p>17 the topic of fragrances and ovarian cancer?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. I read a limited amount of material on</p> <p>20 fragrances.</p> <p>21 Q. (BY MR. JAMES) And so my question</p> <p>22 remains.</p> <p>23 Do you agree -- or do you believe that</p> <p>24 you followed the methodology that we just described</p>

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<p style="text-align: right;">Page 62</p> <p>1 in forming your opinions on fragrances and ovarian 2 cancer? 3 A. No. 4 MS. O'DELL: Object to the form. 5 Q. (BY MR. JAMES) Do you believe that you 6 followed the methodology that we just described in 7 forming your opinions on asbestos and ovarian 8 cancer? 9 MS. O'DELL: Object to the form. 10 A. Yes. 11 Q. (BY MR. JAMES) Do you believe that you 12 followed the methodology that we just described on 13 the issue of, quote, "fibrous talc," close quote, 14 and ovarian cancer? 15 A. Yes. 16 MS. O'DELL: Object to the form. 17 Give me just a second, Doctor. Thank 18 you. 19 Q. (BY MR. JAMES) Dr. Smith, can you explain 20 to me the difference between the reference list 21 attached to your report and the -- what I refer to 22 as the materials considered list attached to your 23 report as part of Exhibit C? 24 Do you understand that there are two</p>	<p style="text-align: right;">Page 64</p> <p>1 referring to as the reliance list and which sources 2 you did not review? 3 A. I'd have to go through it one by one. I'd 4 be glad to. 5 Q. Yeah. I think that we're time limited 6 today, so I ask that we not do that at this time. 7 A. Okay. 8 Q. Are there materials that you reviewed and 9 that you concluded were not relevant to your opinion 10 cited on the reliance list but not on the reference 11 list? 12 MS. O'DELL: Objection to form. 13 A. I think that -- so are we calling the 14 Exhibit C a reliance list -- 15 Q. (BY MR. JAMES) I think, Doctor -- 16 A. -- and my -- 17 Q. I was trying to use your terminology, but 18 it's -- I'll just -- 19 A. Okay. 20 Q. -- to be clearer, I'll ask the question 21 with Exhibit C. 22 A. Okay. 23 Q. Are there materials contained on Exhibit C 24 that you reviewed but did not cite to or discuss in</p>
<p style="text-align: right;">Page 63</p> <p>1 different lists? 2 A. Yes, I do. 3 Q. Okay. Can you explain to me the 4 difference between those two lists, the significance 5 of why they're placed on one list versus the other? 6 A. If I used a reference in my paper, it is 7 on my reference list. 8 The larger reference list, I believe, 9 is what's called a reliance list that aggregates all 10 the references that all the experts that are 11 involved in this litigation had as one master list 12 of reference for the whole litigation. 13 Does that make sense? 14 Q. Was that a list that you created, the 15 materials considered list? 16 A. The reliance list, the last one? 17 Q. Yes, Doctor. 18 A. I did not create that. 19 Q. Did you review all of the sources listed 20 on that list? 21 A. There are sources on there that I have not 22 reviewed. 23 Q. Is there any way for you to delineate 24 which sources you reviewed on the -- what you're</p>	<p style="text-align: right;">Page 65</p> <p>1 the text of your report? 2 MS. O'DELL: If you understand the 3 question, Doctor. If you're confused about the 4 question, then I'm sure counsel will be glad to 5 rephrase it. Because with the terminology, this is 6 getting -- it is a little confusing. 7 A. Could you clarify that -- 8 Q. (BY MR. JAMES) Sure. I'll try to. 9 A. -- because I am a little confused. 10 Q. I'll try. 11 A. I'm sorry. 12 Q. That's okay. 13 Did you review materials cited on the 14 Exhibit C that you concluded were not relevant to 15 your opinions? 16 A. I can't recall anything. 17 Q. In your report, you make reference to 18 looking at company documents, correct? 19 A. Correct. 20 Q. Did you affirmatively request those 21 company documents or were those provided to you by 22 counsel without you requesting those? 23 A. Those were provided to me without request. 24 Q. Did counsel -- sitting here today, do you</p>

17 (Pages 62 to 65)

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<p>1 recall the information or subject matter of the</p> <p>2 company documents that you reviewed?</p> <p>3 A. Ummm . . .</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 If there's any confusion in the</p> <p>6 question, Doctor, just ask him to rephrase it. But</p> <p>7 if you understand the question, feel free to answer.</p> <p>8 A. I believe that the -- there was a</p> <p>9 newspaper article about condoms and exclusion of</p> <p>10 talc products with condoms, that was a company</p> <p>11 document that I saw.</p> <p>12 Q. (BY MR. JAMES) Did the company documents</p> <p>13 that you were provided by counsel inform your</p> <p>14 opinions in this case?</p> <p>15 A. No -- well . . . No.</p> <p>16 Q. When counsel provided you the company</p> <p>17 documents to review, did you ask for any additional</p> <p>18 company documents?</p> <p>19 A. No.</p> <p>20 Q. Did you ask for context to those company</p> <p>21 documents?</p> <p>22 MS. O'DELL: Object- -- objection to</p> <p>23 form of the question.</p> <p>24 You -- don't reveal any communications</p>	<p>1 additional documents that would provide context to</p> <p>2 the documents that you were initially provided?</p> <p>3 A. I --</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 A. I don't believe so.</p> <p>6 Q. (BY MR. JAMES) Did you ask if any defense</p> <p>7 witness had ever authored any testimony about the</p> <p>8 company documents you were provided?</p> <p>9 MS. O'DELL: Excuse me, Doctor. Don't</p> <p>10 testify to any communications with counsel.</p> <p>11 So if you -- you can ask her, did she</p> <p>12 ask a question. She can say yes. But in terms of</p> <p>13 the subject matter of the question, the content of</p> <p>14 that conversation, I'm gonna object and just</p> <p>15 instruct the witness not to answer.</p> <p>16 Is that -- is that a</p> <p>17 fair distinction --</p> <p>18 MR. JAMES: But you're allowing the</p> <p>19 witness to answer whether she asked for it, correct?</p> <p>20 MS. O'DELL: I think I -- you asked</p> <p>21 that question and I allowed it.</p> <p>22 MR. JAMES: Got it.</p> <p>23 MS. O'DELL: But to the degree you've</p> <p>24 asked for what her questions were, what the</p>
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<p>1 you've had with counsel about company documents, or</p> <p>2 any other thing, for that matter --</p> <p>3 THE WITNESS: Okay.</p> <p>4 MS. O'DELL: -- but in regard to this</p> <p>5 topic.</p> <p>6 MR. JAMES: Well, I'm just asking what</p> <p>7 she's asked to see. So --</p> <p>8 THE WITNESS: I haven't asked to --</p> <p>9 MR. JAMES: -- I'm asking --</p> <p>10 THE WITNESS: -- see anything.</p> <p>11 MR. JAMES: Well, I'm sorry,</p> <p>12 Dr. Smith.</p> <p>13 THE WITNESS: Sorry.</p> <p>14 MR. JAMES: So if you feel like</p> <p>15 there's a way to rephrase my question, that's what</p> <p>16 I'm trying to get at.</p> <p>17 MS. O'DELL: I think you asked -- I</p> <p>18 heard you ask a different question than asked --</p> <p>19 MR. JAMES: Okay. Let me try again.</p> <p>20 MS. O'DELL: -- than that. So just --</p> <p>21 if you don't mind, rephrase it.</p> <p>22 MR. JAMES: Understood.</p> <p>23 Q. (BY MR. JAMES) After you were provided</p> <p>24 the company documents, did you ask if there were any</p>	<p>1 discussion was, I think that is protected.</p> <p>2 MR. JAMES: Got it.</p> <p>3 Q. (BY MR. JAMES) So did you ask for any --</p> <p>4 once you were provided the company documents that</p> <p>5 you were provided by counsel, did you ask whether</p> <p>6 the defense had ever offered any testimony or</p> <p>7 witnesses about the contents of those documents?</p> <p>8 MS. O'DELL: Excuse me, Doctor. Don't</p> <p>9 answer that question.</p> <p>10 That's the subject matter of the</p> <p>11 communication, and I'm not gonna allow her to answer</p> <p>12 those questions.</p> <p>13 So don't answer the question.</p> <p>14 Q. (BY MR. JAMES) Do you know if any defense</p> <p>15 witness has ever addressed the content of the</p> <p>16 company documents that you were provided by counsel?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. I don't know that.</p> <p>19 Q. (BY MR. JAMES) You would agree with me</p> <p>20 that if you were attempting as a scientist to form</p> <p>21 opinions on a particular topic you would want to be</p> <p>22 sure that you were provided both sides of the story,</p> <p>23 correct?</p> <p>24 MS. O'DELL: Object to the form.</p>

18 (Pages 66 to 69)

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<p>1 You may answer the question if you</p> <p>2 understand it, Doctor.</p> <p>3 A. I think the scientific literature presents</p> <p>4 both sides of the story. That's how you factor it</p> <p>5 in, right? You usually don't call up individuals</p> <p>6 and ask them their opinion. Their published,</p> <p>7 peer-reviewed opinions are available in the</p> <p>8 literature.</p> <p>9 Q. (BY MR. JAMES) Dr. Smith, in your report</p> <p>10 in discussing asbestos, you mentioned litigation</p> <p>11 reports authored by a Dr. Longo, correct?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So we were just talking about</p> <p>14 company documents --</p> <p>15 A. But now --</p> <p>16 Q. -- in the -- prior to the questioning, and</p> <p>17 I want to just make sure you know where I'm going.</p> <p>18 You testified that the company</p> <p>19 documents did not inform your opinions, correct?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. Yes. Perhaps you and I are talking about</p> <p>22 different things between company documents and</p> <p>23 litigation documents.</p> <p>24 Q. (BY MR. JAMES) Sure. And I think -- fair</p>	<p>1 A. I do not know that.</p> <p>2 Q. And wouldn't you want to know that as a</p> <p>3 scientist before forming opinions upon Dr. Longo's</p> <p>4 reports?</p> <p>5 MS. O'DELL: Object to the form.</p> <p>6 A. I would be interested in that.</p> <p>7 Q. (BY MR. JAMES) And counsel didn't provide</p> <p>8 that information to you, did they?</p> <p>9 A. They did not.</p> <p>10 MS. O'DELL: I would just object to</p> <p>11 the statement that somehow that question assumes,</p> <p>12 Counsel, that defense -- defendants in this case</p> <p>13 have served expert reports, which they have not.</p> <p>14 It's a little misleading, but . . .</p> <p>15 Q. (BY MR. JAMES) You were looking at</p> <p>16 Dr. Longo's litigation reports from other cases.</p> <p>17 Did you know that?</p> <p>18 MS. O'DELL: Dr. Smith is not involved</p> <p>19 in other cases, so I'm not sure she would have</p> <p>20 information to know what's another case or what the</p> <p>21 present case. So to be fair --</p> <p>22 MR. JAMES: Leigh, I've asked a fair</p> <p>23 question, and I think Dr. Smith is capable of</p> <p>24 answering it.</p>
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<p>1 enough.</p> <p>2 Let's just move on to the Longo</p> <p>3 requesting.</p> <p>4 A. Okay.</p> <p>5 Q. And with respect to asbestos, you looked</p> <p>6 at Longo litigation reports, correct?</p> <p>7 A. I did.</p> <p>8 Q. You understand those to be litigation</p> <p>9 materials, correct?</p> <p>10 A. Yes.</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 Q. (BY MR. JAMES) Do you understand Longo --</p> <p>13 Dr. Longo is a paid litigation expert, correct?</p> <p>14 A. Yes.</p> <p>15 Q. And you understand his reports are not</p> <p>16 peer-reviewed, correct?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. Yes.</p> <p>19 Q. (BY MR. JAMES) You understand that</p> <p>20 they're not published, correct?</p> <p>21 A. Yes.</p> <p>22 Q. Do you know if anyone on the defense side</p> <p>23 has addressed or responded to Dr. Longo's litigation</p> <p>24 reports?</p>	<p>1 MS. O'DELL: I'm not sure that that's</p> <p>2 a fair question.</p> <p>3 If you understand it --</p> <p>4 MR. JAMES: Well, why don't you please</p> <p>5 state your objection and then let Dr. Smith answer,</p> <p>6 if you can.</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 MR. JAMES: Thank you.</p> <p>9 A. Could you say it again? I got lost.</p> <p>10 Q. (BY MR. JAMES) Sure. You've already</p> <p>11 agreed with me that the Longo reports that you've</p> <p>12 reviewed are litigation reports, correct?</p> <p>13 A. Right.</p> <p>14 Q. Okay. And your counsel just stated that</p> <p>15 the Longo litigation reports were not part of the</p> <p>16 MDL litigation.</p> <p>17 MS. O'DELL: That's not what I said.</p> <p>18 MR. JAMES: Okay.</p> <p>19 Q. (BY MR. JAMES) Nevertheless, you have</p> <p>20 reviewed litigation reports from plaintiffs -- an</p> <p>21 expert that's paid by plaintiffs in this litigation,</p> <p>22 correct?</p> <p>23 A. I have.</p> <p>24 Q. You have also reviewed a litigation report</p>

19 (Pages 70 to 73)

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<p>1 prepared by a Dr. Crowley, correct?</p> <p>2 A. Correct.</p> <p>3 Q. And that pertains to fragrances, correct?</p> <p>4 A. Correct.</p> <p>5 Q. You understand Dr. Crowley's report is not</p> <p>6 peer-reviewed, correct?</p> <p>7 A. Correct.</p> <p>8 Q. You understand his report is not published</p> <p>9 in the medical literature, correct?</p> <p>10 A. Correct.</p> <p>11 Q. Did you review any of the other expert</p> <p>12 reports besides Dr. Crowley's report in this MDL?</p> <p>13 MS. O'DELL: In addition to Dr. Longo.</p> <p>14 MR. JAMES: Thank you.</p> <p>15 Q. (BY MR. JAMES) In addition to Dr. Longo?</p> <p>16 A. I don't think so.</p> <p>17 MS. O'DELL: Hey, Scott, we've been</p> <p>18 going about an hour and 15 minutes or something</p> <p>19 close to that, hour and 10 minutes. Whenever it's a</p> <p>20 good place --</p> <p>21 MR. JAMES: Another 5 to finish this</p> <p>22 line.</p> <p>23 Is that good, Doctor?</p> <p>24 THE WITNESS: Sure.</p>	<p>1 Dr. Blount has been listed by plaintiffs in talc</p> <p>2 litigation as an expert for plaintiffs?</p> <p>3 MS. O'DELL: Object to the form;</p> <p>4 misstates the testimony, as I understand it.</p> <p>5 A. I know she's been deposed.</p> <p>6 Q. (BY MR. JAMES) Did you review her</p> <p>7 testimony in full?</p> <p>8 A. I -- I reviewed her paper, and I read her</p> <p>9 testimony fairly superficially.</p> <p>10 Q. Do you know if the defense in the talc</p> <p>11 litigation has responded to or addressed</p> <p>12 Dr. Blount's testimony and article?</p> <p>13 A. I do not know that.</p> <p>14 Q. Wouldn't you like to know that?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. Sure.</p> <p>17 Q. (BY MR. JAMES) Is there a reason that you</p> <p>18 didn't consider the defenses' response to</p> <p>19 Dr. Blount's testimony and article?</p> <p>20 MS. O'DELL: Object to the form of the</p> <p>21 question.</p> <p>22 There have been no expert reports</p> <p>23 in -- by -- served by defendants in the MDL. That's</p> <p>24 an unfair question.</p>
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<p>1 MR. JAMES: Okay.</p> <p>2 Q. (BY MR. JAMES) Dr. Smith, you also looked</p> <p>3 at -- or at least you listed, in your lists, you</p> <p>4 looked at the deposition of a Dr. Alice Blount,</p> <p>5 correct?</p> <p>6 A. Oh, yes.</p> <p>7 Q. Okay. Does that ring a bell?</p> <p>8 A. Yes. But is she involved in this</p> <p>9 litigation?</p> <p>10 Q. That was gonna be my question to you.</p> <p>11 Did you know that Dr. Blount has</p> <p>12 testified as an expert for plaintiffs in the talc</p> <p>13 litigation?</p> <p>14 A. In --</p> <p>15 MS. O'DELL: Excuse me. Object to the</p> <p>16 form.</p> <p>17 A. In this MDL?</p> <p>18 Q. (BY MR. JAMES) In the talc litigation --</p> <p>19 A. Oh, in the talc litigation, yes.</p> <p>20 MS. O'DELL: Object to the form. I</p> <p>21 think it's a mischaracterization to say she's an</p> <p>22 expert, to my knowledge.</p> <p>23 So you want to restate your question.</p> <p>24 Q. (BY MR. JAMES) Do you know that</p>	<p>1 A. I'm lost again. I'm sorry.</p> <p>2 Q. (BY MR. JAMES) Sure. I understand.</p> <p>3 You read Dr. Blount's testimony</p> <p>4 superficially is what you just testified to,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. You understand Dr. Blount testified in</p> <p>8 another case in the talc litigation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Do you know if the defendants responded to</p> <p>11 Dr. Blount's testimony and report in that case?</p> <p>12 A. I do not know that.</p> <p>13 Q. You've cited in your report a deposition</p> <p>14 exhibit from a Dr. John Hopkins.</p> <p>15 Does that ring a bell?</p> <p>16 A. It does.</p> <p>17 Q. Okay. And you also cited a deposition</p> <p>18 exhibit from a Julie Pier.</p> <p>19 Does that ring a bell?</p> <p>20 A. It does.</p> <p>21 Q. And why did you look at those two</p> <p>22 exhibits?</p> <p>23 A. I looked at the identification in Pier on</p> <p>24 minerals and quantities, parts per million.</p>

20 (Pages 74 to 77)

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<p>1 I looked at the Hopkins', the</p> <p>2 identification of asbestos and asbestiform species</p> <p>3 in various ore and talcum powder products.</p> <p>4 Q. Did you consider both of those exhibits</p> <p>5 relevant to the opinions that you formed concerning</p> <p>6 asbestos and ovarian cancer?</p> <p>7 A. Yes.</p> <p>8 Q. Did you -- do you know if the defense has</p> <p>9 addressed or responded to the information contained</p> <p>10 in those two deposition exhibits?</p> <p>11 A. I --</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. I do not know.</p> <p>14 Q. (BY MR. JAMES) Did you ask if the</p> <p>15 defendants have responded to the information</p> <p>16 contained in those exhibits?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. I did --</p> <p>19 MS. O'DELL: And I -- excuse me. And</p> <p>20 I would instruct you just-- he's asking you about</p> <p>21 what you talked about with your lawyers for the</p> <p>22 plaintiffs, and I would just instruct you not to</p> <p>23 answer that question, as I've instructed you on</p> <p>24 every other line of inquiry to that extent.</p>	<p>1 Dr. Smith, did you do any independent</p> <p>2 testing to support your opinions in this case?</p> <p>3 A. I did not.</p> <p>4 Q. Did you do any independent analysis or</p> <p>5 reanalysis of raw data to support your opinions?</p> <p>6 A. I did not.</p> <p>7 Q. On page 2 of your report, Dr. Smith, you</p> <p>8 conclude with a passage where you state that you</p> <p>9 have applied in this litigation, quote, "The same</p> <p>10 methodology and scientific rigor that I have used</p> <p>11 regularly in my professional career and clinical</p> <p>12 practice," closed quote.</p> <p>13 Do you see that passage that I read?</p> <p>14 A. Oh, yes. In the -- under Methodology?</p> <p>15 Q. Yes, Doctor.</p> <p>16 A. Yes.</p> <p>17 Q. Did you see where I read?</p> <p>18 A. Yes.</p> <p>19 Q. Okay.</p> <p>20 A. Yes.</p> <p>21 Q. In your professional practice and your</p> <p>22 clinical practice, do you rely on litigation reports</p> <p>23 by paid experts?</p> <p>24 MS. O'DELL: Object to the form.</p>
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<p>1 I instructed her not to answer that.</p> <p>2 A. I'm --</p> <p>3 MR. JAMES: Understood.</p> <p>4 A. -- not responding.</p> <p>5 Q. (BY MR. JAMES) Yeah, understood.</p> <p>6 Would you like to know if the</p> <p>7 defendants have responded to the information</p> <p>8 contained in the two deposition exhibits that you</p> <p>9 cited?</p> <p>10 A. Yes, I would.</p> <p>11 MR. JAMES: Is now good for a break?</p> <p>12 MS. O'DELL: Sure.</p> <p>13 MR. JAMES: Okay.</p> <p>14 Thank you, Doctor.</p> <p>15 THE VIDEOGRAPHER: Going off the</p> <p>16 record. The time is 10:34 a.m.</p> <p>17 (A recess was taken from 10:34 a.m.</p> <p>18 to 10:53 a.m.)</p> <p>19 THE VIDEOGRAPHER: Back on the record.</p> <p>20 The time is 10:53 a.m.</p> <p>21 Q. (BY MR. JAMES) Okay. Dr. Smith, are we</p> <p>22 ready to proceed?</p> <p>23 A. I am.</p> <p>24 Q. Great.</p>	<p>1 A. No.</p> <p>2 Q. (BY MR. JAMES) Do you rely on unpublished</p> <p>3 data or unpublished testing as a clinician?</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 A. Occasionally, there is unpublished data</p> <p>6 that you may cite information from an author for the</p> <p>7 things that weren't in publication material.</p> <p>8 That -- that happens commonly with a lot of</p> <p>9 scientific reports.</p> <p>10 Q. (BY MR. JAMES) As a clinician, have you</p> <p>11 ever relied on the type of litigation materials that</p> <p>12 you have reviewed in your capacity as an expert in</p> <p>13 this case?</p> <p>14 MS. O'DELL: Object to the form;</p> <p>15 vague.</p> <p>16 A. I don't think so.</p> <p>17 Q. (BY MR. JAMES) As a clinician, in your</p> <p>18 daily practice or your professional practice, have</p> <p>19 you ever relied on deposition testimony of paid</p> <p>20 experts to form your opinions?</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. No.</p> <p>23 Q. (BY MR. JAMES) Before being contacted by</p> <p>24 counsel in this case, had you formed an opinion as</p>

21 (Pages 78 to 81)

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<p>1 to any cause of ovarian cancer?</p> <p>2 A. (No response.)</p> <p>3 Q. And let me rephrase that --</p> <p>4 A. Yes.</p> <p>5 Q. -- because it's prob- -- it's phrased</p> <p>6 poorly.</p> <p>7 Before being contacted about work in</p> <p>8 this litigation, had you reached the conclusion that</p> <p>9 there were any causes of ovarian cancer?</p> <p>10 A. Yes.</p> <p>11 Q. And what had you concluded before being</p> <p>12 contacted in the litigation about causes of ovarian</p> <p>13 cancer?</p> <p>14 A. Well, I'm not sure that I</p> <p>15 understand how -- what do you mean "cause"?</p> <p>16 Q. You understand that in the epidemiologic</p> <p>17 literature, the word "association" is used, correct?</p> <p>18 A. Yes.</p> <p>19 Q. And the word "cause" is used, correct?</p> <p>20 A. Correct.</p> <p>21 Q. In your clinical practice, if someone</p> <p>22 asked you what caused their ovarian cancer, would</p> <p>23 you know what they were asking you?</p> <p>24 A. Yes.</p>	<p>1 loosely, could -- could be categorized as a cause of</p> <p>2 ovarian cancer?</p> <p>3 A. Yes.</p> <p>4 Q. Is there anything else that you had</p> <p>5 concluded before your work in this litigation that</p> <p>6 could be categorized as a cause of ovarian cancer?</p> <p>7 A. Yes.</p> <p>8 Q. What else?</p> <p>9 A. Endometriosis.</p> <p>10 Do you want more?</p> <p>11 Q. Yes. If you could list any others.</p> <p>12 A. Nulliparity, some data on obesity, mixed</p> <p>13 data on pelvic inflammatory disease, mixed data on</p> <p>14 smoking. That's what has come to the top of my</p> <p>15 head.</p> <p>16 Q. And just to make sure that we're on the</p> <p>17 same page, my question at this point is still</p> <p>18 confined to the issue of cause.</p> <p>19 And so of the items that you just</p> <p>20 mentioned before being retained in this litigation,</p> <p>21 had you concluded that obesity is a cause of ovarian</p> <p>22 cancer?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 A. Mixed data on that. More pertaining to</p>
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<p>1 Q. By the word "cause"?</p> <p>2 A. Yes.</p> <p>3 Q. And so I don't mean for my question to be</p> <p>4 confusing. I'm -- what I'm asking you is if --</p> <p>5 certainly in this litigation, you have offered the</p> <p>6 opinion in your report that in your opinion talc</p> <p>7 causes ovarian cancer, correct?</p> <p>8 A. Correct.</p> <p>9 Q. Did you form that opinion, that causation</p> <p>10 opinion, after being retained in this litigation?</p> <p>11 A. After reviewing the literature.</p> <p>12 Q. And after being retained; is that right?</p> <p>13 A. Correct.</p> <p>14 Q. And so my question to you, which I hope is</p> <p>15 simple, is that before you were contacted about work</p> <p>16 in this litigation, had you concluded that there was</p> <p>17 anything else out there that could be categorized as</p> <p>18 a cause of ovarian cancer?</p> <p>19 A. Are you -- causation such as genetic</p> <p>20 predisposition?</p> <p>21 Q. That would be one of them.</p> <p>22 A. Okay. Yeah. Then we're on the same page.</p> <p>23 Q. Okay. And so had -- had you concluded</p> <p>24 before your work in this litigation that genetics,</p>	<p>1 endometrioid cancers.</p> <p>2 Q. (BY MR. JAMES) So you would -- did you</p> <p>3 hold the opinion before your work in this litigation</p> <p>4 that obesity was a cause of ovarian cancer?</p> <p>5 MS. O'DELL: Object to the form.</p> <p>6 A. Partially.</p> <p>7 Q. (BY MR. JAMES) And when you say</p> <p>8 "partially," are you referring to the subtype?</p> <p>9 A. Yes.</p> <p>10 Q. And so of the i- -- the items that you did</p> <p>11 just mention to me, then, you do consider those to</p> <p>12 be -- you did consider those to be causes of ovarian</p> <p>13 cancer before your work in this litigation; is that</p> <p>14 correct?</p> <p>15 A. Correct.</p> <p>16 Q. When you reached those causation</p> <p>17 conclusions, did you do so based upon the body of</p> <p>18 scientific and medical literature?</p> <p>19 A. Yes.</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 Q. (BY MR. JAMES) Did you reach those</p> <p>22 conclusions in the context of litigation?</p> <p>23 A. No.</p> <p>24 Q. Did you reach those causation conclusions</p>

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<p>1 after talking with plaintiffs' counsel?</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 A. No.</p> <p>4 Q. (BY MR. JAMES) Did you reach those</p> <p>5 causation conclusions after being provided materials</p> <p>6 selected for your review by counsel?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. (Examined realtime screen.) No.</p> <p>9 Q. (BY MR. JAMES) Did you reach those</p> <p>10 causation conclusions by reviewing unpublished</p> <p>11 litigation reports?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. No.</p> <p>14 Q. (BY MR. JAMES) Did you reach those</p> <p>15 causation conclusions by reviewing company</p> <p>16 documents?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. No.</p> <p>19 Q. (BY MR. JAMES) What conclusions did you</p> <p>20 have, if any, before your work in this litigation on</p> <p>21 the talc ovarian cancer hypothesis?</p> <p>22 MS. O'DELL: Object to the form.</p> <p>23 Would you -- would you -- could you</p> <p>24 just -- I was just reading your question, Scott.</p>	<p>1 Q. (BY MR. JAMES) When you said you</p> <p>2 registered those concerns in your brain, what do you</p> <p>3 mean by that?</p> <p>4 A. I never used talcum powder products on my</p> <p>5 female children, and I don't have any male children,</p> <p>6 so that's pretty much -- and I didn't use talcum</p> <p>7 powder products on myself, and I felt strongly about</p> <p>8 that.</p> <p>9 Q. And what time frame was that?</p> <p>10 A. Well, I heard from him in 1979 in my first</p> <p>11 trial, and I didn't use talcum powder from 1979 to</p> <p>12 1992 when my first daughter was born, nor did I use</p> <p>13 it in 1994 for diapering my second daughter; and we</p> <p>14 just didn't have powder in my home.</p> <p>15 Q. Did you express those concerns in writing</p> <p>16 anywhere?</p> <p>17 A. No.</p> <p>18 Q. We discussed this already this morning,</p> <p>19 but did you express those concerns to any of the</p> <p>20 patients that you treated?</p> <p>21 A. No.</p> <p>22 Q. Same line of questions but with respect to</p> <p>23 asbestos. Okay?</p> <p>24 Did you conclude before -- what --</p>
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<p>1 Is that right?</p> <p>2 MR. JAMES: What conclusions.</p> <p>3 MS. O'DELL: Okay. Sorry.</p> <p>4 A. I was concerned about talc products being</p> <p>5 transported through the female genital tract because</p> <p>6 of findings in the '70s of talc deeply embedded in</p> <p>7 ovarian tissue.</p> <p>8 J. Don Woodruff was one of my mentors,</p> <p>9 and he shared this information with me in 1979; and</p> <p>10 I found it concerning. He went on or was in the</p> <p>11 position at that time of postulating talc -- talcum</p> <p>12 powder as an etiologic factor in the development of</p> <p>13 ovarian cancer. This is well before the publication</p> <p>14 of the epidemiologic studies, and I registered his</p> <p>15 concerns in my brain.</p> <p>16 Q. (BY MR. JAMES) And with that statement,</p> <p>17 then, are you indicating that those concerns -- you</p> <p>18 did not express those concerns to anyone else,</p> <p>19 correct?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 Misstates her testimony, but go ahead.</p> <p>22 MR. JAMES: I don't want to do that,</p> <p>23 so let me start over.</p> <p>24 A. Okay.</p>	<p>1 what conclusions had you come to, if any, before</p> <p>2 your work in this litigation about a relationship</p> <p>3 between asbestos and ovarian cancer?</p> <p>4 A. Prior to my work in this litigation, I did</p> <p>5 not have an awareness of the relationship of</p> <p>6 asbestos to ovarian cancer.</p> <p>7 Q. Is that an opinion, then, that you've</p> <p>8 formed in the context of litigation?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. After my review of the scientific data,</p> <p>11 yes.</p> <p>12 Q. (BY MR. JAMES) And to be clear and to</p> <p>13 respond to the objection, the question I'm asking</p> <p>14 is: Did you reach the opinion about the</p> <p>15 relationship between asbestos and ovarian cancer in</p> <p>16 the context of this litigation?</p> <p>17 A. I think it's unfair to say "context of</p> <p>18 litigation." I would have -- had I reviewed all</p> <p>19 that literature, I would have reached that</p> <p>20 conclusion whether or not this litigation was</p> <p>21 ongoing or not.</p> <p>22 Q. If you don't like the word "context," I</p> <p>23 can rephrase.</p> <p>24 Did you reach the asbestos conclusions</p>

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<p>1 that you've rendered in your report after being 2 retained in this litigation? 3 A. Yes, correct. 4 Q. On that note, Dr. Smith, let's look at 5 page 21 of your report, please. 6 A. (Complied.) Excuse me. 7 Q. And you see at the bottom of page 21, 8 Dr. Smith, you have a section that's labeled 9 "Summary of my opinions." 10 Do you see where I am? 11 A. Yes, sir. 12 Q. And Item Number 1 is the opinion that you 13 hold today that talc causes ovarian cancer, correct? 14 A. Correct. 15 Q. And we've discussed this already, but that 16 is an opinion that you've formed after being 17 retained in the litigation, correct? 18 A. Correct. 19 Q. With respect to Item Number 2, you have 20 opined that "There is credible evidence that 21 Johnson and Johnson baby powder products contain 22 asbestos." 23 Do you see where I read? 24 A. I do.</p>	<p>1 those are facts. Those are scientific facts. 2 They've been demonstrated in the laboratory. 3 Q. (BY MR. JAMES) You understand that you 4 have been retained to offer your scientific opinions 5 in this litigation, right? 6 A. Yes. Yes. 7 Q. And so Number 3, do you hold the opinion 8 that you've expressed in Number 3? 9 A. Yes. 10 Q. Is that an opinion that you've formed 11 after being retained in the litigation? 12 A. Yes. 13 Q. And Number 4, do you see where I am still? 14 A. I do. 15 Q. Okay. And Number 4 is an opinion 16 concerning migration and also an opinion concerning 17 inhalation, correct? 18 A. Yes. 19 Q. Are those opinions that you've formed 20 after being retained in this litigation? 21 A. Correct. 22 Q. Turning to the opinion that you have 23 expressed that there is, quote, "credible evidence," 24 close quote, that Johnson's Baby Powder products</p>
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<p>1 Q. Is that an opinion that you formed after 2 your retention in this litigation? 3 A. Correct. 4 Q. Then you have the opinion that asbestos 5 and fibrous talc cause ovarian cancer. 6 Again, those are opinions that you've 7 formed after being retained in the litigation, 8 correct? 9 A. Correct. 10 Q. And then continuing on to Number 2, the 11 opinion that you've formed concerning heavy metals, 12 is that an opinion that you formed after being 13 retained in the litigation? 14 A. Correct. 15 Q. With respect to -- and the same is true 16 with fragrances, is that an opinion that you formed 17 after being retained in the litigation? 18 A. Correct. 19 Q. And Item Number 3, you express opinions 20 concerning inflammation. 21 Is that a fair paraphrasing of 22 Number 3? 23 MS. O'DELL: Objection to form. 24 A. I don't think those are opinions. I think</p>	<p>1 contain asbestos, what is the credible evidence that 2 you rely upon? 3 A. The paper of Blount in 1991 and the report 4 of Dr. Longo and the other doctor with him whose 5 name I forgot. It starts with an R, I think. 6 MS. O'DELL: I think you mean Rigler. 7 THE WITNESS: That's it. Starts with 8 an R. 9 Q. (BY MR. JAMES) Are those the litigation 10 reports in litigation testimony that we previously 11 discussed? 12 A. Yes, sir. 13 Q. Is there any other evidence that you 14 consider -- that you have considered that supports 15 your opinion that there's, quote, "credible 16 evidence" of asbestos in those products? 17 MS. O'DELL: Object to the form. 18 A. I can't remember any other evidence or 19 references. 20 Q. (BY MR. JAMES) You cite some articles on 21 page 18 of your report? 22 A. Oh, yes. 23 Q. Do you see where I am, Doctor? 24 A. Yes.</p>

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<p>1 Q. And you cite a number of articles there.</p> <p>2 Do you see where I'm looking in the</p> <p>3 first paragraph?</p> <p>4 A. (Examined exhibit.) Yes.</p> <p>5 Q. Okay. In that -- the first paragraph in</p> <p>6 that section?</p> <p>7 A. Yes.</p> <p>8 MS. O'DELL: And we're -- just for</p> <p>9 purposes, we're at page 18?</p> <p>10 MR. JAMES: Correct.</p> <p>11 THE WITNESS: Yeah. We're talking</p> <p>12 about the first sentence.</p> <p>13 MS. O'DELL: Okay.</p> <p>14 Q. (BY MR. JAMES) How did you obtain those</p> <p>15 articles?</p> <p>16 A. Those articles were provided for me as</p> <p>17 reference materials by the plaintiffs' attorneys.</p> <p>18 Q. Do any of those articles pertain to</p> <p>19 Johnson & Johnson products?</p> <p>20 A. Blount disclosed in her deposition that it</p> <p>21 was Johnson & Johnson Baby Powder.</p> <p>22 Q. And I'm -- just to be clear, I'm asking</p> <p>23 about the articles that you've cited in the first</p> <p>24 paragraph in the asbestos section on page 18.</p>	<p>1 reports provided to review.</p> <p>2 Q. (BY MR. JAMES) And those were the reports</p> <p>3 provided to you by plaintiffs' counsel?</p> <p>4 A. Yes.</p> <p>5 Q. And you also cited a number of articles</p> <p>6 that you just testified were provided to you by</p> <p>7 plaintiffs' counsel?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. Yes.</p> <p>10 Q. (BY MR. JAMES) Did you find any articles</p> <p>11 through your searches that contradicted the</p> <p>12 information provided to you by plaintiffs' counsel?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. Yes.</p> <p>15 Q. (BY MR. JAMES) Where are those articles</p> <p>16 cited in your report?</p> <p>17 A. I don't think I have cited them in my</p> <p>18 report.</p> <p>19 Q. You found articles that contradict the</p> <p>20 allegation that asbestos is a contaminant in talcum</p> <p>21 powder products, correct?</p> <p>22 MS. O'DELL: Object to the form.</p> <p>23 A. It's not a contradiction. The absence of</p> <p>24 something does not contradict the presence of</p>
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<p>1 A. Blount's one of those articles -- well,</p> <p>2 her article -- the deposition is not the paper.</p> <p>3 You're right. Sorry.</p> <p>4 Q. No, that's fine.</p> <p>5 A. I don't know that any of those were</p> <p>6 Johnson & Johnson Baby Powder.</p> <p>7 MS. O'DELL: Just to be -- if you're</p> <p>8 referring to -- when you say "those," it's not clear</p> <p>9 on the record, so if there's something specific --</p> <p>10 you don't have to go back, but just be -- be</p> <p>11 cognizant of that.</p> <p>12 Q. (BY MR. JAMES) What level of review did</p> <p>13 you undertake to collect literature on the topic of</p> <p>14 the alleged presence of asbestos in talcum powder</p> <p>15 products?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. (Examined exhibit.)</p> <p>18 MS. O'DELL: If you understand the</p> <p>19 question.</p> <p>20 THE WITNESS: I understand the</p> <p>21 question.</p> <p>22 A. I mean, I remember Googling that question</p> <p>23 and getting into a lot of craziness on the internet</p> <p>24 that I didn't want to be in. I relied on the</p>	<p>1 something.</p> <p>2 Do you understand?</p> <p>3 Like in Longo's report, he found</p> <p>4 asbestos in 63 percent of his samples. He did not</p> <p>5 find asbestos in 34 percent of his samples. The</p> <p>6 fact that he didn't find it in 34 percent does not</p> <p>7 mean he didn't find it in 66.</p> <p>8 Asbestos is a carcinogen and its</p> <p>9 significance in risk to life is when you find it.</p> <p>10 In the FDA report that did not find</p> <p>11 asbestos in Johnson's Baby Powder, Shower to Shower,</p> <p>12 and in multiple samples from suppliers of ore -- I</p> <p>13 mean, that's great that they didn't find it, but it</p> <p>14 doesn't mean it's not detectable. And I can't</p> <p>15 explain in terms of being an expert in technique to</p> <p>16 understand why some people found it and some people</p> <p>17 didn't find it.</p> <p>18 Does that make sense to you?</p> <p>19 Q. (BY MR. JAMES) I think you answered a</p> <p>20 question that I didn't ask, so let me rephrase.</p> <p>21 A. I'm sorry.</p> <p>22 Q. In searching for literature about the</p> <p>23 alleged presence of asbestos in cosmetic talc, did</p> <p>24 you find any articles -- published articles that</p>

25 (Pages 94 to 97)

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<p style="text-align: right;">Page 98</p> <p>1 reach the conclusion that there was no such</p> <p>2 contamination?</p> <p>3 MS. O'DELL: Object to the form.</p> <p>4 A. I can't remember any.</p> <p>5 Q. (BY MR. JAMES) If you had found those,</p> <p>6 would you have discussed those in your report?</p> <p>7 A. Probably. I mean, I want to be</p> <p>8 comprehensive.</p> <p>9 Q. And so if there is a body of literature</p> <p>10 out there that you didn't discuss in your report,</p> <p>11 then you would agree that your analysis of the issue</p> <p>12 was not comprehensive, correct?</p> <p>13 MS. O'DELL: Excuse me. Object to the</p> <p>14 form; misstates her testimony.</p> <p>15 A. If I missed it, I shouldn't have.</p> <p>16 Q. (BY MR. JAMES) And, Dr. Smith, you did</p> <p>17 just mention the FDA testing of talc for the</p> <p>18 presence of asbestos, correct?</p> <p>19 A. Yes.</p> <p>20 Q. And have you reviewed that testing?</p> <p>21 A. I've reviewed that report.</p> <p>22 Q. The FDA's report?</p> <p>23 A. Yes.</p> <p>24 Q. Did you discuss it at all in your</p>	<p style="text-align: right;">Page 100</p> <p>1 question?</p> <p>2 MR. JAMES: The findings in Exhibit</p> <p>3 Number 7.</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 A. Their -- I -- they said, "No asbestos</p> <p>6 detected."</p> <p>7 I can -- I don't know enough about</p> <p>8 testing to disagree with them, but I don't know</p> <p>9 what -- I mean, does "none" mean zero or does "none"</p> <p>10 mean below some level?</p> <p>11 I do know that their technique -- I</p> <p>12 know enough to know that it's a good means of</p> <p>13 finding asbestos by, you know, polarized light</p> <p>14 microscopy followed by TEM, that that's a good</p> <p>15 technique.</p> <p>16 I don't understand why theirs are so</p> <p>17 different from the other, and I don't have the</p> <p>18 expertise to go any further than that.</p> <p>19 Q. (BY MR. JAMES) With respect to whether</p> <p>20 there is asbestos in the cosmetic talc products or</p> <p>21 there isn't, is it fair to say that you would defer</p> <p>22 to others?</p> <p>23 A. Yes.</p> <p>24 MS. O'DELL: Object to the form.</p>
<p style="text-align: right;">Page 99</p> <p>1 litigation report?</p> <p>2 A. No.</p> <p>3 Q. And why is that?</p> <p>4 A. I explained that. Negative isn't as</p> <p>5 significant as positive.</p> <p>6 Q. Is that because the positive testing</p> <p>7 results supports your litigation opinion; the</p> <p>8 negative testing results do not?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. No. It's because the positive testing is</p> <p>11 a threat to human life.</p> <p>12 Q. (BY MR. JAMES) So you have seen -- I'm</p> <p>13 gonna mark as Exhibit Number 7 the 2007 -- excuse</p> <p>14 me, the 2010 FDA testing on cosmetic talc.</p> <p>15 A. Yes.</p> <p>16 (Deposition Exhibit 7 marked for</p> <p>17 identification.)</p> <p>18 Q. (BY MR. JAMES) Is that a printout of the</p> <p>19 testing information you have reviewed, Dr. Smith?</p> <p>20 A. That is identical to what I have reviewed.</p> <p>21 Q. Okay. Do you have any reason to disagree</p> <p>22 with the FDA's findings here in this Exhibit 7?</p> <p>23 MS. O'DELL: Object to the form to the</p> <p>24 degree -- what findings are you referring to in your</p>	<p style="text-align: right;">Page 101</p> <p>1 Q. (BY MR. JAMES) And do you consider</p> <p>2 yourself to be an expert in mineral classification?</p> <p>3 A. Absolutely not.</p> <p>4 Q. What about an expert in mineralogy?</p> <p>5 A. Absolutely not.</p> <p>6 Q. But you understand the FDA's testing was</p> <p>7 performed by an independent lab?</p> <p>8 A. Yes, they said that.</p> <p>9 Q. And that's contrasted, which you</p> <p>10 understand that Longo's testing is done by a paid</p> <p>11 litigation expert, correct?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. I'm kind of thinking they probably paid</p> <p>14 the lab they sent it to too. I mean, shouldn't</p> <p>15 they?</p> <p>16 Q. (BY MR. JAMES) And who's -- who is</p> <p>17 "they"?</p> <p>18 A. The FDA paid the AMA Analytical Services.</p> <p>19 Q. Okay. Do you have any understanding of</p> <p>20 how the lab results by the FDA were obtained or paid</p> <p>21 for?</p> <p>22 A. No.</p> <p>23 Q. Do you have an understanding of -- did you</p> <p>24 know that the FDA's testing was performed outside</p>

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<p>1 the context of litigation?</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 A. I hadn't thought of it, but I would not</p> <p>4 think it's about litigation.</p> <p>5 Q. (BY MR. JAMES) And if we looked at the</p> <p>6 front page of Exhibit Number 7, which I've handed</p> <p>7 you, have you reviewed the text of this exhibit</p> <p>8 before today?</p> <p>9 A. This whole -- yes.</p> <p>10 Q. Okay.</p> <p>11 MS. O'DELL: And if you need to</p> <p>12 look --</p> <p>13 Q. (BY MR. JAMES) And do you understand that</p> <p>14 this exhibit --</p> <p>15 MS. O'DELL: Excuse me. Excuse me.</p> <p>16 If you -- and if you need to refresh</p> <p>17 yourself on any part of the text, Doctor, feel free</p> <p>18 to do that as he's asking you questions.</p> <p>19 THE WITNESS: Okay.</p> <p>20 MR. JAMES: Absolutely. Certainly.</p> <p>21 Q. (BY MR. JAMES) If you turn to the second</p> <p>22 page of the exhibit, do you see the section that's</p> <p>23 titled "How FDA followed up on the latest reports"?</p> <p>24 A. Yes.</p>	<p>1 Q. Have you looked at those?</p> <p>2 A. No, I have not.</p> <p>3 Q. Are you aware that Johnson & Johnson</p> <p>4 manufacturers its products in accordance with United</p> <p>5 States Pharmacopeia Convention?</p> <p>6 MS. O'DELL: Objection to form.</p> <p>7 A. I did not know that specifically.</p> <p>8 Q. (BY MR. JAMES) Have heard of that</p> <p>9 organization before?</p> <p>10 A. Yes, I have.</p> <p>11 Q. Do you consider that to be a respected</p> <p>12 organization?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. Yes.</p> <p>15 Q. (BY MR. JAMES) Did you know that there</p> <p>16 have been thousands upon thousands of testing</p> <p>17 documents produced in this litigation?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. I --</p> <p>20 MS. O'DELL: Don't speculate. If</p> <p>21 you -- if you --</p> <p>22 THE WITNESS: I --</p> <p>23 MR. JAMES: I'm asking her if she</p> <p>24 knew.</p>
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<p>1 Q. Okay. And you see it says, quote,</p> <p>2 "Because safety questions about the possible</p> <p>3 presence of asbestos in talc are raised</p> <p>4 periodically, the FDA decided to conduct an</p> <p>5 exploratory survey of currently marketed</p> <p>6 cosmetic-grade raw material talc," closed quote.</p> <p>7 Do you see where I read?</p> <p>8 A. Yes.</p> <p>9 Q. And there's no discussion there that the</p> <p>10 testing was done at the behest of litigation, is</p> <p>11 there?</p> <p>12 A. No.</p> <p>13 Q. And did you know that the talcum products</p> <p>14 tested by the FDA in this document were Johnson &</p> <p>15 Johnson products?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. I think it says Johnson's Baby Powder and</p> <p>18 Shower to Shower on there, and I know those are J&J</p> <p>19 products.</p> <p>20 Q. (BY MR. JAMES) Do you have any personal</p> <p>21 knowledge concerning the specifications that are</p> <p>22 used by Johnson & Johnson with respect to its</p> <p>23 cosmetic talcum powder products?</p> <p>24 A. I do not know them.</p>	<p>1 THE WITNESS: -- was going to say I</p> <p>2 didn't know.</p> <p>3 MS. O'DELL: Okay. Good. I didn't</p> <p>4 hear what your answer was. Sorry.</p> <p>5 THE WITNESS: Okay.</p> <p>6 MS. O'DELL: I didn't -- I talked over</p> <p>7 you. I apologize.</p> <p>8 THE WITNESS: That's okay.</p> <p>9 Q. (BY MR. JAMES) So the -- just so that the</p> <p>10 exchange is clear, Doctor, did you know that there</p> <p>11 have been thousands upon thousands of testing</p> <p>12 documents produced in this litigation?</p> <p>13 A. I did not.</p> <p>14 Q. Did you know that those testing documents</p> <p>15 include testing documents performed by third-party</p> <p>16 labs?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. I did not.</p> <p>19 Q. (BY MR. JAMES) Did you review a 2014</p> <p>20 letter by the FDA in the course of forming your</p> <p>21 opinions in this case?</p> <p>22 A. Could you show me that letter?</p> <p>23 Q. Absolutely.</p> <p>24 A. See if I recognize it.</p>

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<p>1 MR. JAMES: I'm gonna mark as Exhibit 2 Number 8 -- it's the 2014 FDA letter denying the 3 Citizen Petitions. 4 (Deposition Exhibit 8 marked for 5 identification.) 6 A. (Examined exhibit.) Yes, sir, I have seen 7 this letter. 8 Q. (BY MR. JAMES) Did you consider this 9 letter informative -- to be informative of your 10 opinions? 11 MS. O'DELL: Object to the form. 12 A. I read this report, and it went into a 13 total database. 14 Q. (BY MR. JAMES) And does that mean your 15 total set of materials that you considered? 16 A. Yes, it's my brain. 17 Q. Do you understand that in this letter the 18 FDA also commented on the allegation that asbestos 19 contaminates cosmetic talc products? 20 A. Yes. 21 Q. And did you -- do you recall seeing the 22 FDA's conclusion in this letter about that 23 allegation? 24 MS. O'DELL: Feel free to refresh</p>	<p>1 asbestos. 2 Q. (BY MR. JAMES) And my -- the question 3 that I posed before Ms. O'Dell made her speaking 4 objection was that do you have any reason to 5 disagree with the FDA's statements in this letter 6 about the allegation that asbestos contaminates talc 7 products? 8 MS. O'DELL: Object to the form; 9 misstates the document. 10 A. (Examined realtime screen.) 11 I share the FDA's concern that they 12 make a blanket statement with testing only some of 13 the suppliers and a limited number of products and a 14 limited number of samples of those products, so I -- 15 I understand they -- how they base their conclusion. 16 I might have or would have suggested additional 17 studies. 18 Q. (BY MR. JAMES) And you understand -- 19 again, we've discussed this already, but of the 20 products tested, those products included Johnson & 21 Johnson products. 22 Did you know that? 23 A. Yes. I -- they had a single sample of 24 Johnson & Johnson powder from the DC area.</p>
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<p>1 yourself about the document, Dr. Smith. 2 A. (Examined exhibit.) My understanding was 3 their conclusions was that they were not going to 4 issue a warning on products, nor were they going to 5 allow a hearing for further discussion. 6 Q. (BY MR. JAMES) And you understand that in 7 this 2014 letter the FDA referred back to its 2010 8 testing for presence of asbestos, correct? 9 A. Correct. 10 Q. Do you have any reason to disagree with 11 the FDA's statements in this letter about the 12 allegation that asbestos contaminates talc products? 13 MS. O'DELL: Object to the form. 14 I think Dr. Smith misunderstood your 15 prior question. Counsel, I think you sort of missed 16 each other. 17 But your context of this question is 18 asbestos, not the overall finding of the letter, but 19 asbestos itself? 20 Q. (BY MR. JAMES) Dr. Smith, can you answer 21 my question? 22 A. I may have to read it again. 23 (Examined realtime screen.) Yes, they 24 did refer back to the 2010 testing for presence of</p>	<p>1 Q. Do you understand that the supplier of the 2 talc that's used in Johnson & Johnson products also 3 submitted samples? 4 A. Yes, I did. 5 Q. Do you have any opinions about the amount 6 of exposure to asbestos that you believe would be 7 imparted upon a user of Johnson & Johnson talc 8 products? 9 MS. O'DELL: Object to the form; vague 10 as to time and duration. 11 A. No. 12 Q. (BY MR. JAMES) And do you have any 13 opinions about the alleged contamination on a 14 fiber-per-bottle basis? 15 MS. O'DELL: Object to the form. 16 A. No. 17 Q. (BY MR. JAMES) Do you have an opinion as 18 to when you believe J&J talc powder products were 19 contaminated with asbestos and on the market? 20 MS. O'DELL: Object to the form. 21 A. Yes. 22 Q. (BY MR. JAMES) What is that opinion? 23 A. My opinion is that contamination occurs at 24 the mine and persists through the processing all the</p>

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<p>1 way to market.</p> <p>2 Q. Okay. I think you misunderstood my</p> <p>3 question or maybe I asked a bad question.</p> <p>4 But do you have any opinion about</p> <p>5 when, for what duration or period of years,</p> <p>6 Johnson & Johnson talc products were on the market</p> <p>7 and were allegedly contaminated with asbestos?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. Dr. Longo has tested samples from the '70s</p> <p>10 to 2000 with the presence of a -- presence of</p> <p>11 asbestos.</p> <p>12 Q. (BY MR. JAMES) And, again, you're</p> <p>13 referring back to the Longo litigation testing that</p> <p>14 we've talked about at length --</p> <p>15 A. Yes.</p> <p>16 Q. -- this morning, correct?</p> <p>17 A. Yes.</p> <p>18 MS. O'DELL: Objection to form.</p> <p>19 Excuse me. Object to the form.</p> <p>20 Q. (BY MR. JAMES) Do you have any opinion</p> <p>21 about -- well, strike that.</p> <p>22 With respect to your opinion that</p> <p>23 asbestos is a cause of ovarian cancer, how did you</p> <p>24 go about searching for the materials that you</p>	<p>1 A. Yes.</p> <p>2 Q. Okay. Did you review any other studies</p> <p>3 examining the purported relationship between</p> <p>4 asbestos and ovarian cancer?</p> <p>5 A. Not that I remember.</p> <p>6 Q. Does this report reflect your complete</p> <p>7 analysis of those studies?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 Q. (BY MR. JAMES) And how they relate to</p> <p>10 your opinions in this case?</p> <p>11 MS. O'DELL: Objection to form.</p> <p>12 A. Yes. I believe so.</p> <p>13 Q. (BY MR. JAMES) Do you recall looking at</p> <p>14 the Reid study? Do you -- sitting here today, do</p> <p>15 you recall the Reid study?</p> <p>16 A. That's my favorite one. May I see it.</p> <p>17 Q. Sure.</p> <p>18 MS. O'DELL: Yes. Please.</p> <p>19 Q. (BY MR. JAMES) Did you say -- I'm sorry.</p> <p>20 Did you say the Reid study was your</p> <p>21 favorite study?</p> <p>22 A. Yes.</p> <p>23 MS. O'DELL: On this topic, Doctor.</p> <p>24 THE WITNESS: In my life, no. It is</p>
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<p>1 reviewed to inform that opinion?</p> <p>2 A. I reviewed articles that were listed in</p> <p>3 IARC 100C and --</p> <p>4 Q. And the -- oh, I'm sorry, Doctor.</p> <p>5 A. -- then PubMed research as well.</p> <p>6 THE COURT REPORTER: What did you say?</p> <p>7 THE WITNESS: PubMed, P-u-b-M-e-d</p> <p>8 Q. And on page 18 through 19, Doctor, is,</p> <p>9 again, your section on asbestos, correct?</p> <p>10 A. Um-hum. Um-hum.</p> <p>11 Q. And in that section, Doctor, you refer to</p> <p>12 the IARC, which you just mentioned, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And then you cite five, what you refer to</p> <p>15 as, quote, "heavy occupational exposure," close</p> <p>16 quote, studies, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And below that you also discuss the</p> <p>19 Camargo study; is that right?</p> <p>20 A. Correct.</p> <p>21 Q. And then if you turn the page, you refer</p> <p>22 in a single sentence to a Reid study, correct?</p> <p>23 A. Correct.</p> <p>24 Q. Did you review all of those studies?</p>	<p>1 not my favorite study in my life, but . . .</p> <p>2 MR. JAMES: Okay. I'm gonna mark the</p> <p>3 Reid study as Exhibit Number 9.</p> <p>4 (Deposition Exhibit 9 marked for</p> <p>5 identification.)</p> <p>6 A. (Examined exhibit.)</p> <p>7 MR. JAMES: Oh, thank you.</p> <p>8 Q. (BY MR. JAMES) Have you had a chance to</p> <p>9 refresh your recollection of the study, Doctor?</p> <p>10 A. Um-hum. Um-hum.</p> <p>11 Q. And why is this your favorite study?</p> <p>12 A. As a pathology review discriminating</p> <p>13 mesothelioma from epithelial ovarian cancer.</p> <p>14 Q. And you don't have any -- strike that.</p> <p>15 The discussion that you've included in</p> <p>16 your report as to Reid is that single sentence,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Do you --</p> <p>20 A. And it's a meta-analysis.</p> <p>21 Q. Do you agree with the statements in the</p> <p>22 Reid study about misclassification?</p> <p>23 A. Exactly what statements, please?</p> <p>24 Q. Sure.</p>

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<p style="text-align: right;">Page 114</p> <p>1 So if you look towards the Conclusion</p> <p>2 section that's on the second to last page of the</p> <p>3 article.</p> <p>4 A. (Complied.) Thank you.</p> <p>5 Q. And if you look at the Conclusion section,</p> <p>6 I'll just read the first couple sentences.</p> <p>7 The article says, quote, "Taken</p> <p>8 without further analysis, women thought to have</p> <p>9 ovarian cancer had an increased rate in the</p> <p>10 meta-analysis if reporting having been exposed to</p> <p>11 asbestos, compared with reference populations."</p> <p>12 (Paraphrasing.) However, this finding may result</p> <p>13 from the methods used to identify the ovarian cancer</p> <p>14 cases, close quote.</p> <p>15 A. Yes.</p> <p>16 Q. Do you agree with the concern expressed in</p> <p>17 Reid about the disease misclassification?</p> <p>18 A. I do.</p> <p>19 Q. And then if you scan further down in that</p> <p>20 paragraph of the article, Doctor, you see, you know,</p> <p>21 about halfway to three-quarters of the way down,</p> <p>22 there's a sentence that starts with the word</p> <p>23 "However."</p> <p>24 It says, quote, "However, the authors</p>	<p style="text-align: right;">Page 116</p> <p>1 A. I think the weight of the evidence falls</p> <p>2 with the IARC even though they're meta-analysis</p> <p>3 crossed -- their -- no, their meta-analysis didn't.</p> <p>4 The overall -- I mean, their findings</p> <p>5 have a risk of 1.75 with confidence intervals of</p> <p>6 1.45 to 2.10.</p> <p>7 So, again, she has a positive study</p> <p>8 with pathology review, and then she says the IARC is</p> <p>9 premature. I don't understand her conclusion.</p> <p>10 Q. Do you understand that, again, her --</p> <p>11 her -- the cautions expressed in this last</p> <p>12 paragraph, some of those cautions arise from the</p> <p>13 concerns about disease in this classification.</p> <p>14 Do you understand that?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. Yes.</p> <p>17 Q. (BY MR. JAMES) And do you agree with</p> <p>18 those concerns?</p> <p>19 MS. O'DELL: Object to the form.</p> <p>20 A. I think it is very difficult to</p> <p>21 discriminate mesothelioma from epithelial ovarian</p> <p>22 cancer sometimes.</p> <p>23 Q. (BY MR. JAMES) And I received word that</p> <p>24 the tape needs to be changed so --</p>
<p style="text-align: right;">Page 115</p> <p>1 of this article suggest that the IARC decision to</p> <p>2 determine asbestos exposure as a cause of ovarian</p> <p>3 cancer was premature and not wholly supported by the</p> <p>4 evidence" --</p> <p>5 A. Are you on the back page?</p> <p>6 Q. -- close quote.</p> <p>7 Yes. On the same paragraph that I was</p> <p>8 reading with you earlier. It's the Conclusion</p> <p>9 paragraph.</p> <p>10 A. Where it says "Discussions"? Oh, no.</p> <p>11 Q. I'm on page --</p> <p>12 A. Oh, I'm --</p> <p>13 Q. -- 1294.</p> <p>14 A. Okay. I've caught up with you now.</p> <p>15 Sorry. (Examined exhibit.)</p> <p>16 Q. And I was reading a sent- -- a sentence</p> <p>17 that started with the word "However."</p> <p>18 A. All right. Um-hum. (Examined exhibit.)</p> <p>19 Q. Do you agree with the Reid authors that</p> <p>20 the determination of IARC was premature?</p> <p>21 A. No, I do not.</p> <p>22 Q. Do you agree with the authors of the Reid</p> <p>23 paper that the IARC conclusion was not wholly</p> <p>24 supported by the evidence?</p>	<p style="text-align: right;">Page 117</p> <p>1 A. Okay.</p> <p>2 Q. -- we'll take a short break.</p> <p>3 A. Okay.</p> <p>4 THE VIDEOGRAPHER: Going off the</p> <p>5 record. The time is 11:39 a.m.</p> <p>6 (A recess was taken from 11:39 a.m.</p> <p>7 to 11:55 a.m.)</p> <p>8 THE VIDEOGRAPHER: This marks the</p> <p>9 beginning of Disk 2. Back on the record. The time</p> <p>10 is 11:55 a.m.</p> <p>11 Q. (BY MR. JAMES) Dr. Smith, we are</p> <p>12 continuing our discussion of your opinion on</p> <p>13 asbestos as causes of ovarian cancer. Okay?</p> <p>14 A. Correct.</p> <p>15 Q. Did you consider any weaknesses or</p> <p>16 limitations in the body of the literature that you</p> <p>17 reviewed concerning the link between asbestos and</p> <p>18 ovarian cancer?</p> <p>19 A. Could you be more specific?</p> <p>20 Q. Certainly in evaluating medical literature</p> <p>21 you would agree that one thing for you to consider</p> <p>22 is whether the study has any limitations, correct?</p> <p>23 A. Correct.</p> <p>24 Q. And so my question, which is open-ended,</p>

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<p>1 is whether, in looking at the set of literature that</p> <p>2 you looked at on asbestos and ovarian cancer, if you</p> <p>3 found any limitations to that set of literature?</p> <p>4 MS. O'DELL: Objection; vague.</p> <p>5 A. I've considered whether they're single</p> <p>6 site studies, occupational exposure -- exposure</p> <p>7 versus people who wash the clothes of workers or</p> <p>8 nonenvironmental exposure as opposed to</p> <p>9 occupational, those things.</p> <p>10 Q. (BY MR. JAMES) And --</p> <p>11 A. And --</p> <p>12 Q. -- so let's start --</p> <p>13 MS. O'DELL: I'm sorry. Were you</p> <p>14 finished, Dr. Smith? If you --</p> <p>15 THE WITNESS: I have.</p> <p>16 MS. O'DELL: Okay.</p> <p>17 Q. (BY MR. JAMES) Let's -- so you just</p> <p>18 identified one limitation as -- let me -- let me</p> <p>19 rephrase this.</p> <p>20 Would you agree that one limitation of</p> <p>21 the set of literature that you reviewed was that --</p> <p>22 (Phone interruption.)</p> <p>23 THE WITNESS: What is that?</p> <p>24 MR. JAMES: Just a second. Let's go</p>	<p>1 that's okay. I'll try to talk quicker, and you can</p> <p>2 try to anticipate my questions less.</p> <p>3 MS. O'DELL: Well, and if you would --</p> <p>4 yes, and give me a moment just to respond --</p> <p>5 THE WITNESS: Sorry.</p> <p>6 MS. O'DELL: -- respond with an</p> <p>7 objection if I need to.</p> <p>8 THE WITNESS: I'll get better.</p> <p>9 MS. O'DELL: Thank you. You're doing</p> <p>10 great.</p> <p>11 Q. (BY MR. JAMES) You agree that long-term</p> <p>12 exposure to asbestos in an indust- -- in an</p> <p>13 industrial environment is different than the</p> <p>14 allegation that a person's exposed to</p> <p>15 asbestos-contaminated talc products --</p> <p>16 MS. O'DELL: Object --</p> <p>17 Q. (BY MR. JAMES) -- correct?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. If you are talking about difference in</p> <p>20 terms of dosage and -- and amount of exposure, then</p> <p>21 I would say there's probably a difference.</p> <p>22 If you would suggest that the</p> <p>23 mechanism of carcinogenesis is different, then I</p> <p>24 would say no, it's probably the same.</p>
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<p>1 off.</p> <p>2 THE VIDEOGRAPHER: Going off the</p> <p>3 record. The time is 11:57.</p> <p>4 (A recess was taken from 11:57 a.m.</p> <p>5 to 11:58 a.m.)</p> <p>6 THE VIDEOGRAPHER: Back on the record.</p> <p>7 The time is 11:58 a.m.</p> <p>8 Q. (BY MR. JAMES) Dr. Smith, would you agree</p> <p>9 that one limitation to this set of literature that</p> <p>10 you reviewed is that the literature pertains to</p> <p>11 occupational exposures?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. It contains occupational exposure and, I</p> <p>14 mean, the meta-analysis of Reid, for example. It</p> <p>15 contains both.</p> <p>16 Q. (BY MR. JAMES) Do you -- would you agree</p> <p>17 that for the studies that pertain to occupational</p> <p>18 exposure that you've reviewed that's one limitation</p> <p>19 to those studies in applying them to the --</p> <p>20 A. Nonoccupational people, yes.</p> <p>21 Q. Thank you. And the doctor finished my</p> <p>22 question.</p> <p>23 A. Sorry.</p> <p>24 Q. And I -- we understood each other, so</p>	<p>1 Q. (BY MR. JAMES) And you agree that some of</p> <p>2 the studies that the IARC looked at were in the</p> <p>3 occupational context, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And, in fact, the IARC's conclusion on</p> <p>6 causation was heavily weighted on the occupational</p> <p>7 studies, correct?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. I'd have to look at the IARC study again</p> <p>10 to see how they stated it. And I could do that, if</p> <p>11 you want me to.</p> <p>12 Q. (BY MR. JAMES) Do you recall that when</p> <p>13 the IARC looked at the nonoccupational studies the</p> <p>14 association that they found there was not</p> <p>15 statistically significant?</p> <p>16 MS. O'DELL: Objection to the form.</p> <p>17 A. I don't recall that.</p> <p>18 Q. (BY MR. JAMES) If that's the case, do you</p> <p>19 believe that's important?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. I'd like to look at the paper if you'd</p> <p>22 let -- if you'd let me.</p> <p>23 Q. (BY MR. JAMES) Sure.</p> <p>24 THE WITNESS: Am I allowed to see it?</p>

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<p>1 Q. (BY MR. JAMES) That's fine. That's fine. 2 Let's talk about -- talk about -- 3 we'll talk about the paper more -- more specifically 4 in just a second. 5 A. Okay. 6 Q. If I can continue the line of questions on 7 the limitations. 8 A. Okay. 9 Q. So we've talked about occupational -- 10 MS. O'DELL: Excuse me. 11 Q. (BY MR. JAMES) -- being one limitation, 12 correct? 13 MS. O'DELL: Excuse me. Doctor -- 14 MR. JAMES: Leigh, there's not a 15 question pending. 16 MS. O'DELL: She's asked to look at 17 IARC 100C, and if the witness has asked to look at 18 the document, I'm going to put it in front of her. 19 Give me just a second. 20 THE WITNESS: It's the second IA. 21 It's the first thing in the second IA. 22 MS. O'DELL: (Handed binder to 23 witness.) 24 THE WITNESS: Thank you.</p>	<p>1 Q. (BY MR. JAMES) So I'm going to hand 2 you -- I think we're all on the same page now. I'm 3 gonna hand you also a copy with some excerpts from 4 100C. Okay? 5 A. Okay. 6 Q. And I'm gonna mark it as Exhibit 7 Number 10. 8 (Deposition Exhibit 10 marked for 9 identification.) 10 MS. O'DELL: Thank you. Feel free to 11 refer to the whole monograph if you'd like, 12 Doctor -- Dr. Smith. 13 THE WITNESS: Okay. 14 A. I turned right to it. 15 Q. (BY MR. JAMES) Okay. Doctor, if you can 16 look at page 256 -- 17 A. Yeah. 18 Q. -- of either the exhibit that I handed you 19 with the excerpts or you're welcome to look at the 20 larger monograph as well. 21 A. I'm there. 22 Q. And if you look at the right-hand column, 23 it's the first full paragraph in that column. It 24 starts with "The Working Group."</p>
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<p>1 A. (Examined binder.) 2 Q. (BY MR. JAMES) Okay. Dr. Smith, your 3 counsel has handed you a copy of the IARC talc 4 monograph, correct? 5 A. Correct. 6 Q. Okay. And I'm gonna mark as Exhibit 7 Number 10 -- 8 MS. O'DELL: I'm sorry. You said the 9 talc monograph. I handed her 100C. Not -- 10 MR. JAMES: Oh. Thank you. 11 BY MS. O'DELL: Not monograph. 12 MR. JAMES: You're right. 13 BY MS. O'DELL: 193. 14 MR. JAMES: You're right. You're 15 right. Thank you. 16 Q. (BY MR. JAMES) So I am going to -- I'll 17 refer to it commonly as the asbestos monograph 18 for -- for a simple shorthand. 19 So your counsel has handed you a copy 20 of the asbestos monograph 100C and -- 21 MS. O'DELL: Which -- which discusses 22 talc, so I don't want to be misleading. 23 THE WITNESS: No, 193 discusses talc. 24 100C discusses asbestos.</p>	<p>1 Do you see where I'm reading? 2 A. Um-hum. Um-hum. Yes. 3 Q. And if you look down at the bottom half of 4 that paragraph, the IARC Monograph states, quote, 5 "The conclusion received additional support from 6 studies showing that women and girls with 7 environmental, but not occupational exposure to 8 asbestos had positive, though non-significant, 9 increases in both ovarian cancer incidence and 10 mortality," close quote. 11 Do you see where I read that? 12 A. Yes. 13 Q. And did I read that correctly? 14 A. Yes. 15 Q. So here the IARC is commenting that in the 16 nonoccupational studies the association is not 17 statistically significant, correct? 18 MS. O'DELL: Object to the form. 19 A. In the articles, they cited, IARC -- this 20 started in 2009 and was published in 2012, and I do 21 not believe they had the 2011 meta-analysis by Reid 22 in this. They cite Reid 2008 and 2009, but not the 23 meta-analysis. So what they have, they're making 24 their conclusions there.</p>

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<p>1 Q. (BY MR. JAMES) Right.</p> <p>2 A. I think this adds to it.</p> <p>3 Q. The Reid paper?</p> <p>4 A. The 2011 Reid paper.</p> <p>5 Q. And the 2011 Reid paper, again, is the</p> <p>6 paper where the authors conclude that the IARC's</p> <p>7 finding with respect to asbestos and ovarian cancer</p> <p>8 is -- may be premature, correct?</p> <p>9 A. I disa- --</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 A. Yes. You are correct that that is their</p> <p>12 conclusion. I disagree with their conclusion. It</p> <p>13 is your Exhibit 9.</p> <p>14 Q. (BY MR. JAMES) And so you disagree with</p> <p>15 the conclusions of -- of the paper that you qual- --</p> <p>16 that you categorized as one of your favorites,</p> <p>17 correct?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. Yes.</p> <p>20 Q. (BY MR. JAMES) And if you look up on the</p> <p>21 same paragraph, Dr. Smith --</p> <p>22 A. Um-hum.</p> <p>23 Q. -- the first sentence of that paragraph</p> <p>24 reads, quote: (Paraphrasing.) The Working Group</p>	<p>1 posed is about the body of literature that you</p> <p>2 reviewed to inform your opinions about asbestos and</p> <p>3 ovarian cancer.</p> <p>4 Are there any other limitations that</p> <p>5 you can identify for us today?</p> <p>6 MS. O'DELL: Objection to form; vague.</p> <p>7 A. I think the IARC -- I forgot how to speak</p> <p>8 English. Sorry.</p> <p>9 The IARC conclusion that asbestos is</p> <p>10 causative in ovarian cancer is expanded by two</p> <p>11 meta-analyses as opposed to these single studies,</p> <p>12 EPI studies, even though they're cohort studies of</p> <p>13 Camargo and Reid.</p> <p>14 Reid doesn't agree with her own</p> <p>15 statistical findings. I don't know why she did</p> <p>16 that.</p> <p>17 Q. (BY MR. JAMES) Well, the Reid authors</p> <p>18 considered the limitations of the body of</p> <p>19 literature, correct?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. Everyone considers the limitations of the</p> <p>22 body of literature when they write a paper.</p> <p>23 Q. (BY MR. JAMES) Right. So do you -- do</p> <p>24 you think Reid did anything incorrectly in</p>
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<p>1 noted that a causal association between exposure to</p> <p>2 asbestos and cancer of the ovary was clearly</p> <p>3 established, based on five strongly positive</p> <p>4 mort- -- mortality studies of women with heavy</p> <p>5 occupational exposure to asbestos, close quote.</p> <p>6 Do you see that?</p> <p>7 A. Correct.</p> <p>8 Q. So, again, the IARC here is emphasizing</p> <p>9 that the body of literature that supports the IARC's</p> <p>10 finding is the occupational body of literature,</p> <p>11 correct?</p> <p>12 MS. O'DELL: Objection to the form.</p> <p>13 A. Correct.</p> <p>14 Q. (BY MR. JAMES) Are there any other</p> <p>15 limitations that -- that you can think of with</p> <p>16 respect to this set of literature?</p> <p>17 And when I say "set," I refer to the</p> <p>18 literature exploring the relationship between</p> <p>19 asbestos and ovarian cancer.</p> <p>20 A. In IARC --</p> <p>21 MS. O'DELL: Object to the form;</p> <p>22 vague.</p> <p>23 A. -- 100C.</p> <p>24 Q. (BY MR. JAMES) The -- yes. My question</p>	<p>1 evaluating the limitations of the body of</p> <p>2 literature?</p> <p>3 A. I think she made an incorrect conclusion.</p> <p>4 I don't think that necessarily has to do with the</p> <p>5 limitations of the body.</p> <p>6 She has statistically significant</p> <p>7 meta-analytic study even though the strength is low,</p> <p>8 but she -- and then she says -- I disagree with it.</p> <p>9 I don't think it's significant.</p> <p>10 I mean, it's 1.75. What -- I don't --</p> <p>11 I don't understand how she reached her conclusion.</p> <p>12 Q. But you understand she -- the paper notes</p> <p>13 the concern for misclassification, which we've</p> <p>14 already discussed, correct?</p> <p>15 A. Right. But she accounted for that in her</p> <p>16 studies, so I --</p> <p>17 Q. What do you mean by that?</p> <p>18 A. She had a patholo- -- she had pathologic</p> <p>19 review accounted for within here too.</p> <p>20 MS. O'DELL: When you say "here,"</p> <p>21 you're referring to Exhibit 9, the Reid paper?</p> <p>22 THE WITNESS: Yes.</p> <p>23 MS. O'DELL: Okay.</p> <p>24 THE WITNESS: Sorry. I wasn't clear,</p>

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<p>1 and the camera probably can't see it too.</p> <p>2 Q. (BY MR. JAMES) So the authors of the Reid</p> <p>3 paper conclude that disease misclassification may be</p> <p>4 such a problem such that the IARC's conclusion may</p> <p>5 be premature?</p> <p>6 MS. O'DELL: Objection to --</p> <p>7 Q. (BY MR. JAMES) And you're saying that the</p> <p>8 authors --</p> <p>9 MS. O'DELL: Excuse me. Have you</p> <p>10 finished your question? Sorry.</p> <p>11 MR. JAMES: No.</p> <p>12 MS. O'DELL: Okay.</p> <p>13 Q. (BY MR. JAMES) You're saying the author's</p> <p>14 just got it -- got it wrong?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. I disagree with their conclusion.</p> <p>17 Q. (BY MR. JAMES) So with mis- -- with this</p> <p>18 set of literature we've talked about two limitations</p> <p>19 so far: Misclassification and occupational versus</p> <p>20 nonoccupational, correct?</p> <p>21 A. We've talked about those two things, yes.</p> <p>22 Q. Are there any other limitations to the</p> <p>23 body of literature that you reviewed that you can</p> <p>24 identify today?</p>	<p>1 taking me a minute here, Table 2.</p> <p>2 Small number of cases. When they are</p> <p>3 talking about all cases combining, studying 5,240</p> <p>4 cases, is that a small number?</p> <p>5 Q. (BY MR. JAMES) Do you believe there's --</p> <p>6 one of the limitations to this body of literature is</p> <p>7 the small number of cases?</p> <p>8 A. No. No.</p> <p>9 Q. Do you believe that there are any</p> <p>10 limitations to this literature associated with the</p> <p>11 type of asbestos involved in these studies?</p> <p>12 A. No.</p> <p>13 Q. Are you familiar with the type of asbestos</p> <p>14 involved in these occupational studies?</p> <p>15 A. Each of the studies list types, at least</p> <p>16 some of them do.</p> <p>17 Q. Does that matter to you at all?</p> <p>18 A. Big picture, probably not.</p> <p>19 Q. Okay. So does the type of asbestos at</p> <p>20 issue in the studies looked at by the IARC matter to</p> <p>21 you at all in your opinion that asbestos</p> <p>22 contamination in talc is causative of ovarian</p> <p>23 cancer?</p> <p>24 MS. O'DELL: Objection to form.</p>
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<p>1 MS. O'DELL: Object to the form;</p> <p>2 vague.</p> <p>3 A. No.</p> <p>4 MS. O'DELL: Are you limiting that to</p> <p>5 asbestos and ovarian cancer or are you limit -- I</p> <p>6 mean --</p> <p>7 MR. JAMES: Yes. We're talking about</p> <p>8 the subset of literature, which I've said several</p> <p>9 times, pertaining to the allegation that asbestos is</p> <p>10 causative of ovarian cancer. That's what we're</p> <p>11 talking about right now.</p> <p>12 MS. O'DELL: That makes it clear. I</p> <p>13 don't want something taken out of the record later</p> <p>14 and it's not -- it's not clear.</p> <p>15 MR. JAMES: Fair enough.</p> <p>16 A. We've talked about those things. At this</p> <p>17 time, I can think of nothing else.</p> <p>18 Q. (BY MR. JAMES) Do you consider the small</p> <p>19 number of cases to be a limitation to that body of</p> <p>20 literature pertaining to the allegation that</p> <p>21 asbestos is -- is a cause of ovarian cancer?</p> <p>22 MS. O'DELL: Object to the form.</p> <p>23 A. (Examined exhibit.) I'm looking at the</p> <p>24 numbers in the Reid study, and I'm sorry, it's</p>	<p>1 A. I don't remember a breakdown by type in</p> <p>2 the IARC by tremolite or actinolite or -- you know,</p> <p>3 I don't remember that breakdown.</p> <p>4 Q. (BY MR. JAMES) And it's not addressed in</p> <p>5 your report, correct?</p> <p>6 A. It is not addressed in my report.</p> <p>7 Q. To reach your opinion that asbestos is a</p> <p>8 cause of ovarian cancer, what methodology did you</p> <p>9 apply?</p> <p>10 A. The same methodology I applied -- I apply</p> <p>11 every time. I read all the literature that I could</p> <p>12 find. I read it critically. Went through the</p> <p>13 tables, read the footnotes, and made a conclusion,</p> <p>14 as did IARC 100C.</p> <p>15 Q. Is your causation opinion based on IARC?</p> <p>16 A. I think we reached the same conclusion. I</p> <p>17 certainly got a bunch of references from IARC.</p> <p>18 But as I told you, I make my own</p> <p>19 conclusions, even when they disagree with an author</p> <p>20 of a paper. So I'm certainly influenced by their</p> <p>21 conclusion, but I made my conclusion, and I felt</p> <p>22 freedom to disagree if I did.</p> <p>23 Q. Did you read all the studies that IARC</p> <p>24 discussed?</p>

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<p>1 A. Yes.</p> <p>2 Q. Did you read the nonoccupational studies?</p> <p>3 A. I read all of these studies. They are --</p> <p>4 I would have to look at them individually or go to</p> <p>5 details of them.</p> <p>6 Q. Is there a reason why you didn't discuss</p> <p>7 the nonoccupational studies but you did discuss the</p> <p>8 occupational studies?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. I discussed two meta-analyses that include</p> <p>11 occupational and nonoccupational exposure because,</p> <p>12 as I stated other places in my report, I give</p> <p>13 strength to a meta-analysis above a single either</p> <p>14 occupational or nonoccupational exposure.</p> <p>15 Q. (BY MR. JAMES) And in that section, you</p> <p>16 did cite to the five occupational studies, but you</p> <p>17 actually don't cite to the nonoccupational studies</p> <p>18 in the text of your report.</p> <p>19 And so that's the genesis of my</p> <p>20 question is: Did you actually look at the</p> <p>21 nonoccupational studies?</p> <p>22 MS. O'DELL: Objection to form; asked</p> <p>23 and answered.</p> <p>24 A. If -- if there's a study that's -- that I</p>	<p>1 Q. Is the odds ratio that you just cited, the</p> <p>2 odds ratio, applicable to the occupational studies</p> <p>3 or the nonoccupational studies?</p> <p>4 A. Well, there's an occupational one.</p> <p>5 There's a little bit lower. There tend to be in</p> <p>6 the -- the statistically significant ones tend to be</p> <p>7 a 2.27s, 2.53s, not like -- not like asbestos and</p> <p>8 mesothelioma where the relative risk is 70, you</p> <p>9 know. I mean, we're talking about a much lower</p> <p>10 thing.</p> <p>11 Q. And, again, we've talked already about the</p> <p>12 fact of the IARC noted in its analysis that the</p> <p>13 nonoccupational studies provide a not statistically</p> <p>14 significant association.</p> <p>15 A. Yes.</p> <p>16 MS. O'DELL: Excuse me.</p> <p>17 Q. (BY MR. JAMES) Correct?</p> <p>18 MS. O'DELL: Objection to form.</p> <p>19 You may answer.</p> <p>20 A. I agree with you, but that's why we have</p> <p>21 meta-analyses.</p> <p>22 Q. (BY MR. JAMES) Do you consider a</p> <p>23 limitation to the body of literature looking at</p> <p>24 asbestos and ovarian cancer to include confounding?</p>
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<p>1 didn't cite, I -- I don't believe I -- I don't</p> <p>2 remember it.</p> <p>3 Q. (BY MR. JAMES) Later on in your analysis</p> <p>4 with respect to talc and ovarian cancer you talk</p> <p>5 about the importance of strength, correct?</p> <p>6 A. Part of the Bradford Hill criteria, yes.</p> <p>7 Q. And did you consider strength with respect</p> <p>8 to asbestos and ovarian cancer?</p> <p>9 A. I thought it was interesting that the</p> <p>10 strength of the relative risk or overall risk was</p> <p>11 similar between talc and asbestos.</p> <p>12 For Reid, it was 1.75.</p> <p>13 For Camargo, it was pretty close to</p> <p>14 that. I don't remember the exact number. I don't</p> <p>15 think -- I mean, do you want to know the exact</p> <p>16 number? Wait, wait. I may have said it in my</p> <p>17 report.</p> <p>18 (Examined exhibit.) Yeah, 1.77.</p> <p>19 Yeah, that's almost exactly the same thing and</p> <p>20 almost exactly the same confidence intervals, 1.45,</p> <p>21 2.1, 1.37, 2.28. So they're, you know, so those two</p> <p>22 meta-analyses. Now I forgot -- oh, yes. Strength.</p> <p>23 I thought -- I thought it was</p> <p>24 interesting, yes.</p>	<p>1 A. Tell me what you mean by "confounding."</p> <p>2 Q. What does "confounding" mean to you?</p> <p>3 A. No, no. You asked -- I asked first.</p> <p>4 Q. I know, but I get to ask the questions.</p> <p>5 That's the way it works.</p> <p>6 MS. O'DELL: Object to the form to the</p> <p>7 extent it's vague and there may be some confusion.</p> <p>8 A. For example, I would consider a</p> <p>9 confounding factor that every one of your asbestos</p> <p>10 workers are heavy cigarette smokers.</p> <p>11 Q. (BY MR. JAMES) And I'll ask a more</p> <p>12 precise question now.</p> <p>13 Did you -- do you recall, in reviewing</p> <p>14 the body of literature in asbestos and ovarian</p> <p>15 cancer, that the literature notes an inability to</p> <p>16 account for confounding factors?</p> <p>17 A. Yes. In these studies, they -- they</p> <p>18 don't -- they have not accounted for factors.</p> <p>19 Certainly --</p> <p>20 Q. And --</p> <p>21 A. Yeah.</p> <p>22 Q. I'm sorry.</p> <p>23 MS. O'DELL: Finish your answer if</p> <p>24 you'd like to, Dr. Smith.</p>

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<p style="text-align: right;">Page 138</p> <p>1 A. Like genetic. Smoking, genetics, you</p> <p>2 know, all those things, yes.</p> <p>3 Q. (BY MR. JAMES) And you would agree that</p> <p>4 is a limitation to the set of literature, correct?</p> <p>5 A. Yes.</p> <p>6 Q. Have you heard of a body of literature</p> <p>7 referred to as the Miners and Millers studies.</p> <p>8 Does that ring a bell to you?</p> <p>9 A. It rings a bell.</p> <p>10 Q. Do you know if you reviewed those studies</p> <p>11 in the course of forming your opinions in this case?</p> <p>12 A. I'd have to hear an author, but I remember</p> <p>13 reading about the Miners and Mills [sic] studies.</p> <p>14 Q. Did you know that there's a body of</p> <p>15 literature out there studying cancer rates in miners</p> <p>16 and millers of cosmetic talc?</p> <p>17 MS. O'DELL: Object to the form. It's</p> <p>18 vague, asked and answered.</p> <p>19 A. Without an author, I -- I remember studies</p> <p>20 by author or perhaps by the first initial of the</p> <p>21 author's last name, but I don't remember reading</p> <p>22 something called Miners and Mills studies.</p> <p>23 Q. (BY MR. JAMES) If there is a body of</p> <p>24 literature out there that looks at the cancer rates</p>	<p style="text-align: right;">Page 140</p> <p>1 correct?</p> <p>2 A. I do.</p> <p>3 Q. Do you equate fibrous talc to be -- to be</p> <p>4 also talc-containing asbestiform fibers?</p> <p>5 A. Fibrous talc is an abest- -- asbestiform</p> <p>6 habit of talcum powder. So in that -- in that</p> <p>7 equivalence, they're needlelike particles.</p> <p>8 Q. Do you know if the term "fibrous talc" is</p> <p>9 used in the IARC Monograph?</p> <p>10 A. I believe it is.</p> <p>11 Q. Do you understand if there is a</p> <p>12 distinction between fibrous talc and talc-containing</p> <p>13 asbestiform fibers?</p> <p>14 MS. O'DELL: Objection to form.</p> <p>15 A. I believe -- wait.</p> <p>16 (Examined realtime screen.) I believe</p> <p>17 there is a distinction. I would really like to find</p> <p>18 that part because I know it's in here.</p> <p>19 (Examined exhibit.) Talcum-containing</p> <p>20 asbestiform fibers. Talc may also form true mineral</p> <p>21 fibers that are asbestiform in habit. I used the</p> <p>22 right word.</p> <p>23 "Talc-containing asbestiform fibres is</p> <p>24 a term that's been used inconsistently in the</p>
<p style="text-align: right;">Page 139</p> <p>1 of talc miners and millers and that body of</p> <p>2 literature is not cited in your report, then that</p> <p>3 means you didn't consider that body of literature,</p> <p>4 correct?</p> <p>5 MS. O'DELL: Objection to form;</p> <p>6 misstates the record.</p> <p>7 A. I don't remember reading that paper. I</p> <p>8 hope I did.</p> <p>9 Q. (BY MR. JAMES) Okay. Can you cite to</p> <p>10 me -- I'm sorry, Doctor.</p> <p>11 A. I would hope I did read the paper, but I</p> <p>12 didn't. I don't remember it.</p> <p>13 Q. Can you point to me anywhere in your</p> <p>14 report where you would address studies looking at</p> <p>15 cancer rates in miners and millers of talc?</p> <p>16 A. There is not --</p> <p>17 MS. O'DELL: Objection to the form.</p> <p>18 A. There is not in my report.</p> <p>19 Q. (BY MR. JAMES) Within your report, you</p> <p>20 include some opinions on a phrase that I'll put into</p> <p>21 quotes, "fibrous talc," close quote.</p> <p>22 A. Yes.</p> <p>23 Q. You state in your report that "Asbestos</p> <p>24 and fibrous talc cause epithelial ovarian cancer,"</p>	<p style="text-align: right;">Page 141</p> <p>1 literature. In some contexts, it applies to talc</p> <p>2 containing asbestiform fibres of talc or talc</p> <p>3 intergrown on a nanoscale with other minerals,</p> <p>4 including [sic] anthophyllite."</p> <p>5 So I think they make distinction</p> <p>6 between whether it's asbestos or asbestiform habit</p> <p>7 of talc.</p> <p>8 Am I answering your question?</p> <p>9 Q. (BY MR. JAMES) I think so.</p> <p>10 A. Okay.</p> <p>11 Q. Let me ask you this.</p> <p>12 A. Okay.</p> <p>13 Q. Would you defer to other experts on</p> <p>14 distinctions or characterat- -- characterizations of</p> <p>15 fibrous talc versus talc-containing asbestiform</p> <p>16 fibers?</p> <p>17 MS. O'DELL: Objection; form. She</p> <p>18 just answered your question about that.</p> <p>19 A. I believe many mineralogists know more</p> <p>20 about the forms of talc and minerals than I do.</p> <p>21 I . . .</p> <p>22 Q. (BY MR. JAMES) Have you cited any</p> <p>23 epidemiologic or medical literature that supports</p> <p>24 your opinion that fibrous talc is causative of</p>

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<p style="text-align: right;">Page 142</p> <p>1 ovarian cancer?</p> <p>2 A. I have never seen a study that looks</p> <p>3 specifically with pure fibrous talc and ovarian</p> <p>4 cancer.</p> <p>5 Q. What is the significance of your opinions</p> <p>6 on asbestos to your opinions on talc and ovarian</p> <p>7 cancer?</p> <p>8 MS. O'DELL: Objection to the form.</p> <p>9 A. (Examined realtime screen.) I think the</p> <p>10 presence of asbestos in talcum powder products</p> <p>11 causes ovarian cancer.</p> <p>12 Q. (BY MR. JAMES) Is the alleged presence of</p> <p>13 asbestos in cosmetic talc powders critical to your</p> <p>14 causation opinion that talc powders cause ovarian</p> <p>15 cancer?</p> <p>16 A. No.</p> <p>17 MS. O'DELL: Objection to form.</p> <p>18 Q. (BY MR. JAMES) Do you believe that talc</p> <p>19 powders not contaminated with asbestos would also be</p> <p>20 a cause of ovarian cancer?</p> <p>21 A. I'm not sure there is such a thing as a</p> <p>22 pure, platy talc powder, but I believe such powder</p> <p>23 use, did it exist, would cause ovarian cancer.</p> <p>24 Q. Would your answer hold true if I asked the</p>	<p style="text-align: right;">Page 144</p> <p>1 A. Okay. You gave me a --</p> <p>2 MS. O'DELL: Let him -- excuse me.</p> <p>3 Let him ask the question and then you respond.</p> <p>4 THE WITNESS: Okay.</p> <p>5 Q. (BY MR. JAMES) (Examined realtime</p> <p>6 screen.) So the question that I asked was: Do you</p> <p>7 believe that talc that does not contain fibrous talc</p> <p>8 is a cause of ovarian cancer?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. Yes.</p> <p>11 Q. (BY MR. JAMES) If talc powders did not</p> <p>12 contain asbestos or fibrous talc, would your</p> <p>13 opinions about mechanism change?</p> <p>14 A. This is kind of a double negative, doesn't</p> <p>15 it?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 Q. (BY MR. JAMES) I don't think it's a</p> <p>18 double negative.</p> <p>19 A. Okay.</p> <p>20 (Examined realtime screen.) My</p> <p>21 opinion about mechanisms unchanged by concerns of</p> <p>22 asbestos in fibrous talc.</p> <p>23 MR. JAMES: It's 12:32. I can</p> <p>24 continue a little longer if you'd like or -- it's up</p>
<p style="text-align: right;">Page 143</p> <p>1 same question about fibrous talc?</p> <p>2 MS. O'DELL: Just to be clear --</p> <p>3 MR. JAMES: And if you'd like -- I'll</p> <p>4 just go through it again, which is no problem.</p> <p>5 Q. (BY MR. JAMES) Is the alleged presence of</p> <p>6 fibrous talc critical to your causation opinion that</p> <p>7 talcum powders cause ovarian cancer?</p> <p>8 MS. O'DELL: Object to the word</p> <p>9 "alleged."</p> <p>10 You may answer.</p> <p>11 A. I believe that fibr- -- fibrous talc -- a</p> <p>12 poor preparation of fibrous talc applied repeatedly</p> <p>13 and consistently to the perineum would cause ovarian</p> <p>14 cancer.</p> <p>15 Q. (BY MR. JAMES) And let me ask a question,</p> <p>16 maybe, that's more precise, similar to the question</p> <p>17 I asked you about asbestos.</p> <p>18 Do you believe that talc that does not</p> <p>19 contain fibrous talc is a cause of ovarian cancer?</p> <p>20 A. I already answered that.</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. But I -- but --</p> <p>23 Q. (BY MR. JAMES) I think maybe we missed</p> <p>24 each other.</p>	<p style="text-align: right;">Page 145</p> <p>1 to you Leigh and Dr. Smith.</p> <p>2 MS. O'DELL: Dr. Smith, would you like</p> <p>3 to take a break for lunch now or --</p> <p>4 THE WITNESS: Have you got a 10-minute</p> <p>5 block?</p> <p>6 MR. JAMES: I can always go for 10</p> <p>7 more minutes.</p> <p>8 THE WITNESS: Let's do it.</p> <p>9 MR. JAMES: Okay.</p> <p>10 THE WITNESS: Is that -- is everybody</p> <p>11 else comfortable? Yeah, I don't want to --</p> <p>12 MS. O'DELL: Yeah. 10 minutes and</p> <p>13 let's --</p> <p>14 THE WITNESS: -- make somebody --</p> <p>15 BY MS. O'DELL: -- take a break.</p> <p>16 THE WITNESS: -- endure hunger pains.</p> <p>17 Q. (BY MR. JAMES) All right. Dr. Smith,</p> <p>18 we're gonna wade back into your report --</p> <p>19 A. Oh, good.</p> <p>20 Q. -- and I'm looking at page 3.</p> <p>21 And on page 3, Dr. Smith, you list</p> <p>22 what you consider to be, quote, "generally</p> <p>23 accepted," close quote, risk factors for ovarian</p> <p>24 cancer, correct?</p>

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<p>1 A. I see that.</p> <p>2 Q. What is your definition of a generally</p> <p>3 accepted risk factor?</p> <p>4 A. Something that the vast majority of</p> <p>5 trained physicians in that specialty would accept as</p> <p>6 truth.</p> <p>7 Q. And how did you compile this list?</p> <p>8 A. Working in the field for 40 years, viewing</p> <p>9 lots of risk articles and tabulating them, like</p> <p>10 listing them and reviewing the literature regarding</p> <p>11 specific things.</p> <p>12 For example, a comprehensive view of</p> <p>13 the literature regarding tubal sterilization and its</p> <p>14 risk of ovarian cancer.</p> <p>15 Throughout my career, numerous times,</p> <p>16 I've done ovarian contraceptive use and ovarian</p> <p>17 cancer of use as formulations of oral contraceptives</p> <p>18 have changed and different progestins, different</p> <p>19 levels of estrogen, do we still have a suppressive</p> <p>20 effect on ovarian cancer? So this is kind of my</p> <p>21 life.</p> <p>22 Q. Do you believe all of the factors that</p> <p>23 you've listed here in this first paragraph are</p> <p>24 mentioned in the articles here that you've cited?</p>	<p>1 A. What's -- oh, intrauterine devices. I</p> <p>2 don't think that's generally -- it's been -- it's</p> <p>3 been studied in some studies. Pelvic inflammatory</p> <p>4 disease, it's been plus or minus in some studies.</p> <p>5 Q. So --</p> <p>6 A. But --</p> <p>7 Q. I'm sorry.</p> <p>8 A. -- somebody mentioned it somewhere in</p> <p>9 my -- in my life.</p> <p>10 Q. And so the way you've characterized this</p> <p>11 paragraph is that you have attempted to list, quote,</p> <p>12 "generally accepted," close quote, risk factors.</p> <p>13 And what I'm asking you is whether all</p> <p>14 these things that you've listed here are, in your</p> <p>15 opinion, generally accepted by the medical</p> <p>16 community?</p> <p>17 A. I will give you that intrauterine devices</p> <p>18 may not be generally accepted by the majority of --</p> <p>19 I lost my mike. I'm sorry -- obstetrician</p> <p>20 gynecologists.</p> <p>21 Q. And how about PID? Do you believe that's</p> <p>22 a generally accepted risk factor with the</p> <p>23 terminology you've used?</p> <p>24 A. There -- there are a whole bunch of papers</p>
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<p>1 A. I'm not -- without going to each</p> <p>2 individual article, I can't checklist which thing is</p> <p>3 listed in each article.</p> <p>4 Q. Was it -- when you created this list, was</p> <p>5 it your intention to cite to an authority that</p> <p>6 supported each one of these things that you listed</p> <p>7 at least once?</p> <p>8 A. I think -- I don't think everyone -- I</p> <p>9 can't promise you, without looking at each of these</p> <p>10 papers, that everybody listed every single one of</p> <p>11 the things I said, but somebody in this group</p> <p>12 mentioned these things, and I had other information</p> <p>13 that maybe want to put on the list.</p> <p>14 Q. Is it possible that at least some of these</p> <p>15 things that you've listed are not identified in the</p> <p>16 sources that you've cited and instead come from the</p> <p>17 information that you just referred to that -- that</p> <p>18 you possessed through your practice?</p> <p>19 A. It's possible.</p> <p>20 MS. O'DELL: Object to form.</p> <p>21 A. It's possible.</p> <p>22 Q. (BY MR. JAMES) For -- for example, IUDs</p> <p>23 that you listed here, do you believe that's a</p> <p>24 general accepted risk factor for ovarian cancer?</p>	<p>1 about pelvic inflammatory disease and its impact on</p> <p>2 ovarian cancer and epidemiologic studies and they</p> <p>3 vary in value.</p> <p>4 I would -- it is not as strong a risk</p> <p>5 factor as inherited gene mutations, family history,</p> <p>6 nulliparity, and endometriosis.</p> <p>7 Q. When creating this list of generally</p> <p>8 accepted risk factors, did you consult a list of</p> <p>9 risk factors published by any medical or scientific</p> <p>10 organization?</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 But you . . .</p> <p>13 A. I didn't go on any websites to get my</p> <p>14 references.</p> <p>15 Q. (BY MR. JAMES) Would you have consulted</p> <p>16 the list of risk factors published by ACOG?</p> <p>17 A. I didn't get the -- even the committee</p> <p>18 opinion or the postgraduate, all those different</p> <p>19 letters, I didn't use that as one of my resources.</p> <p>20 Q. And did you consider a list of risk</p> <p>21 factors published by the SGL?</p> <p>22 A. I did not use that as one of my risk</p> <p>23 factors.</p> <p>24 Q. Do you recognize both of those</p>

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<p style="text-align: right;">Page 150</p> <p>1 organizations as respected scientific organizations?</p> <p>2 A. I do.</p> <p>3 Q. And you're members of both, correct?</p> <p>4 A. I am.</p> <p>5 Q. And you have been active in both, correct?</p> <p>6 A. Very.</p> <p>7 Q. In crafting a list of generally accepted</p> <p>8 risk factors, why wouldn't you have been interested</p> <p>9 in what those two organizations have to say about</p> <p>10 what is, quote, "generally accepted"?</p> <p>11 A. I'm not disinterested. I, again,</p> <p>12 assembled my own sources out of medical databases</p> <p>13 and read the articles and did my own work.</p> <p>14 It's not that I disagree with them.</p> <p>15 It's just I don't want a copy of their stuff, you</p> <p>16 know. I want to do my own work.</p> <p>17 Q. Earlier you defined "generally</p> <p>18 accepted" -- and I'll see if I can find it on my</p> <p>19 realtime.</p> <p>20 While I'm looking for it, and you can</p> <p>21 correct me if I've misstated it, Dr. Smith, but my</p> <p>22 recall is that you defined "generally accepted" as</p> <p>23 something that is believed by the majority of</p> <p>24 practitioners in the field.</p>	<p style="text-align: right;">Page 152</p> <p>1 I can't give you a percentage, like</p> <p>2 have a vote in ACOG of who calls it a risk factor</p> <p>3 and who doesn't. So I don't know what proportion of</p> <p>4 OB/GYNs believe that's a risk factor or not, but</p> <p>5 certainly some do, and I can't quantitate it</p> <p>6 further.</p> <p>7 Q. (BY MR. JAMES) And to say something is</p> <p>8 generally accepted, you'd have to quantify it,</p> <p>9 wouldn't you?</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 A. Yeah. I think generally it would be at</p> <p>12 51 percent, and I don't know where the count is.</p> <p>13 Q. (BY MR. JAMES) And do you know that the</p> <p>14 ACOG has actually issued a statement on the</p> <p>15 talc/ovarian cancer hypothesis?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. I have read a very brief statement on the</p> <p>18 ACOG website about talc.</p> <p>19 Q. (BY MR. JAMES) And, again, is -- so</p> <p>20 because you consider it to be a well-respected</p> <p>21 organization, you would be interested in what that</p> <p>22 organization has to say about the hypothesis,</p> <p>23 correct?</p> <p>24 A. That's why I looked it up.</p>
<p style="text-align: right;">Page 151</p> <p>1 Is that a fair summary?</p> <p>2 A. Yes.</p> <p>3 Q. Wouldn't it be logical that statements by</p> <p>4 medic- -- respected medical and scientific</p> <p>5 organizations with regard to risk factors would be</p> <p>6 reflective of what the medical community believes --</p> <p>7 A. Yes.</p> <p>8 Q. -- as a whole?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 Q. (BY MR. JAMES) Among that list in the</p> <p>11 same paragraph, you have listed all of the risk</p> <p>12 factors.</p> <p>13 You also list talc and asbestos,</p> <p>14 correct?</p> <p>15 A. Yes.</p> <p>16 Q. And the way you phrase it, I want to be</p> <p>17 sure that I understand your testimony, but are you</p> <p>18 testifying here that talcum powder and asbestos are</p> <p>19 generally accepted risk factors for ovarian cancer?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. They are not on the SGO list. They are</p> <p>22 not -- I mean, on the ACOG list. They are listed in</p> <p>23 some review articles and the literature about them</p> <p>24 in risk factors. They are not listed in others.</p>	<p style="text-align: right;">Page 153</p> <p>1 Q. And do you -- did you -- do you recall, if</p> <p>2 you've looked at that statement, that they say that</p> <p>3 there is, quote, "No medical consensus that talcum</p> <p>4 powder causes ovarian cancer," closed quote?</p> <p>5 A. That was the final line, I think, a first</p> <p>6 line -- first part of what I read was "Don't use it"</p> <p>7 because of the -- I can't -- I can't quote it out of</p> <p>8 my brain. But just the "Don't use talc." We</p> <p>9 haven't got medical consistent is the very short</p> <p>10 statement I remember reading some time ago.</p> <p>11 Q. Okay. I'm gonna mark that, the ACOG</p> <p>12 statement that I'm discussing --</p> <p>13 A. Oh. Well, good.</p> <p>14 Q. -- with you, Dr. Smith, as Exhibit</p> <p>15 Number 11.</p> <p>16 A. Don't make me dig so far back.</p> <p>17 MS. O'DELL: Exhibit 11?</p> <p>18 MR. JAMES: Yes.</p> <p>19 BY MS. O'DELL: Thank you.</p> <p>20 MR. JAMES: That's where we are.</p> <p>21 BY MS. O'DELL: Is this the . . .</p> <p>22 MR. JAMES: And I'm sorry for the</p> <p>23 small print.</p> <p>24 (Line intentionally left blank.)</p>

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<p>1 (Deposition Exhibit 11 marked for 2 identification.) 3 A. (Examined exhibit.) Okay. "Obstetrician 4 gynecologists do not remend -- recommend use of 5 vaginal treatment such as douche, vaginal sprays or 6 talcum powder and the use of talcum powder has 7 declined over the years. There is no medical 8 consensus that talcum powder causes ovarian cancer." 9 Q. (BY MR. JAMES) Right. And so we've 10 talked about that last sentence already, correct, 11 where they -- ACOG has published a statement saying 12 there's not a medical consensus, correct? 13 A. Yes. 14 Q. Okay. And the first portion of the 15 statement that you've read into the record about the 16 gynecologists not recommending the use -- 17 A. Um-hum. 18 Q. -- can you read the first part of that 19 sentence for me? 20 A. "Because of concerns regarding potential 21 discomfort or pain." 22 Q. And so the recommendation to not use the 23 talcum powder products there is predicated on 24 concern for discomfort or pain, correct?</p>	<p>1 don't want women to use talcum powder products and 2 aren't willing to call its relation to ovarian 3 cancer. 4 Q. (BY MR. JAMES) Do you know Dr. Hal 5 Lawrence? 6 A. I do. Blue-eyed boy. 7 Q. Have you reached out to him with any 8 concerns about the statement and how -- 9 A. No, I have not. 10 Q. -- it's phrased? 11 MS. O'DELL: Dr. Smith, let him 12 finish, please, with his question -- 13 THE WITNESS: Oh, I'm sorry. 14 MS. O'DELL: -- just so it's clear on 15 the record. 16 MR. JAMES: Okay. I'm about to the 17 breaking point, I believe. I'm gonna mark as the 18 next two exhibits, Exhibit 12. 19 THE WITNESS: I'm out of order. 20 MS. O'DELL: That's okay. We'll do it 21 a -- 22 THE WITNESS: I don't want to lose 23 any. I don't. 24 MS. O'DELL: They're all there.</p>
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<p>1 MS. O'DELL: Object to the form. 2 A. That's what it says, but -- so -- and the 3 number of references they cite here are puny 4 compared to a number of studies that I reviewed 5 in-depth. I -- 6 Q. (BY MR. JAMES) Do you believe the ACOG -- 7 MS. O'DELL: Excuse me, sir. Let her 8 finish the -- 9 Q. (BY MR. JAMES) Oh, I'm sorry. I thought 10 you were. 11 MS. O'DELL: Yeah. 12 You may finish, Dr. Smith, if you'd 13 like. 14 A. Reading between the lines and knowing some 15 of the people involved, they don't want to incur 16 criticism for saying, "Because of our concerns about 17 a potential for the development of ovarian cancer, 18 obstetrician gynecologists do not recommend the use 19 of vaginal treatments," so they threw in "potential 20 discomfort or pain." 21 Now, women frequently use douches, 22 sprays, or powder because they're uncomfortable. 23 It's not because they cause discomfort. 24 So the people behind the statement</p>	<p>1 THE WITNESS: Here. I got some over 2 here. Sorry. 3 (Deposition Exhibit 12 marked for 4 identification.) 5 Q. (BY MR. JAMES) All right. Dr. Smith, 6 what I've handed you is the publication of risk 7 factors for ovarian cancer published by the SGA -- 8 SGO. 9 A. Yes. 10 Q. Just for the record, Dr. Smith, is this 11 the list that you consulted in forming your opinions 12 in this case? 13 MS. O'DELL: Object to the form; 14 misstates her testimony. I think she said she 15 didn't consult the list. 16 A. Yeah, I didn't read this for writing my 17 report. 18 Q. (BY MR. JAMES) Okay. I thought earlier 19 you testified -- 20 A. I've looked them up. 21 Q. -- that you -- I'm sorry. Well, we're so 22 close. 23 A. I interrupted you. I'm sorry. 24 Q. No. We're both doing it now, but we're</p>

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<p>1 close.</p> <p>2 I'm sorry. I thought you acknowledged</p> <p>3 earlier that you were aware that talc was not listed</p> <p>4 as a risk factor on -- on the SGO's list.</p> <p>5 MS. O'DELL: That's a different</p> <p>6 question, Counsel, but --</p> <p>7 A. Yes, sir, I was aware of that.</p> <p>8 Q. (BY MR. JAMES) Okay. So at some point</p> <p>9 you've read the list, correct?</p> <p>10 A. Yes.</p> <p>11 Q. Did you -- have -- when is the last time</p> <p>12 you've read the list?</p> <p>13 A. I -- the last time I read the list was</p> <p>14 probably in the past two weeks. I did not use this</p> <p>15 list in the preparation of my report. I didn't use</p> <p>16 this as a source.</p> <p>17 Q. And you didn't cite to it?</p> <p>18 A. And I didn't cite it.</p> <p>19 Q. And you didn't discuss it at all?</p> <p>20 A. And I didn't discuss it at all.</p> <p>21 Q. You agree it's relevant when opining on</p> <p>22 what risk factors are generally accepted, correct?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 A. (Examined exhibit.) I'm sorry. I was</p>	<p>1 Q. And before we break, Doctor, just for</p> <p>2 purposes of the record, I also want to confirm: At</p> <p>3 some point, you have looked at a list of risk</p> <p>4 factors for ovarian cancer published by ACOG,</p> <p>5 correct?</p> <p>6 A. Yes.</p> <p>7 Q. And earlier you acknowledged that talc was</p> <p>8 not listed on that --</p> <p>9 A. Yes.</p> <p>10 Q. -- list, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And so I'm -- it's -- and, again, it's</p> <p>13 something that you have not cited or discussed in</p> <p>14 your report, correct?</p> <p>15 A. (Nodded head.)</p> <p>16 Q. So I'm going to hand you what I'm marking</p> <p>17 as Exhibit Number 13 to confirm that this is, in</p> <p>18 fact, what you've looked at. Okay?</p> <p>19 (Deposition Exhibit 13 marked for</p> <p>20 identification.)</p> <p>21 A. (Examined exhibit.) Okay.</p> <p>22 Q. (BY MR. JAMES) Does that list -- does</p> <p>23 that publication that I've handed you look familiar</p> <p>24 to you?</p>
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<p>1 reading it.</p> <p>2 MS. O'DELL: Take a moment if you need</p> <p>3 to, Doctor, to read it.</p> <p>4 A. (Examined exhibit.) I see something here</p> <p>5 that I can say is not permanent -- is not -- I</p> <p>6 disagree with. Let's put it that way. I disagree</p> <p>7 with.</p> <p>8 Yes, women who -- yes. I mean, age</p> <p>9 is -- you know, when -- when you read all these</p> <p>10 papers on risk factors, aging is a risk factor for</p> <p>11 the development of ovarian cancer, and this is one</p> <p>12 of the few places that I say -- that I see actually</p> <p>13 say, "Yeah, the older you get, the higher your</p> <p>14 risk," because that's just the way it is.</p> <p>15 They say women who have had</p> <p>16 gynecologic surgery makes them at increased risk for</p> <p>17 ovarian cancer, and I have never seen that before.</p> <p>18 I -- I can't remember seeing that anywhere.</p> <p>19 And I've certainly seen hysterectomy</p> <p>20 decreases value and tubal ligation decreases value,</p> <p>21 but having that in the increase, that is not</p> <p>22 something I've ever seen. I'd like to see the</p> <p>23 studies that show that.</p> <p>24 Okay. So my comments are done.</p>	<p>1 A. Yes.</p> <p>2 Q. Is that what you reviewed before,</p> <p>3 Dr. Smith --</p> <p>4 A. I've seen it before.</p> <p>5 Q. -- with respect to ACOG?</p> <p>6 A. I've seen it before.</p> <p>7 Q. Do you consider it relevant to the</p> <p>8 opinions that you're offering in this case?</p> <p>9 A. It is relevant to the conversation.</p> <p>10 Q. Is it relevant to an opinion about whether</p> <p>11 something is generally accepted or not?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. It's accepted by the members of -- or at</p> <p>14 least the steering committee of ACOG, and I -- this</p> <p>15 is pretty bland. It's -- I think most people would</p> <p>16 agree with these risk -- risk factors.</p> <p>17 MR. JAMES: Is now time for a break</p> <p>18 everyone?</p> <p>19 THE WITNESS: I'm up for it.</p> <p>20 THE VIDEOGRAPHER: Going off the</p> <p>21 record. The time is 12:54 p.m.</p> <p>22</p> <p>23 (A lunch recess taken from 12:54 p.m.</p> <p>24 to 2:03 p.m.)</p>

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<p style="text-align: right;">Page 162</p> <p>1 AFTERNOON SESSION</p> <p>2 THE VIDEOGRAPHER: Back on the record.</p> <p>3 The time is 2:03 p.m.</p> <p>4 EXAMINATION (CONTINUED)</p> <p>5 BY MR. JAMES:</p> <p>6 Q. Dr. Smith, are we ready to proceed?</p> <p>7 A. We are.</p> <p>8 Q. Great.</p> <p>9 In compiling your list of generally</p> <p>10 accepted risk factors, did you consult the NCI's</p> <p>11 list of risk factors for ovarian cancer?</p> <p>12 A. I did not.</p> <p>13 Q. Okay. Are you aware that the NCI has</p> <p>14 listed risk factors in the publication referred to</p> <p>15 as the PDQ?</p> <p>16 A. I know they have PDQs. I have not read</p> <p>17 that PDQ.</p> <p>18 Q. You recognize the NCI, the National Cancer</p> <p>19 Institute, as a respected scientific organization?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. Yes.</p> <p>22 Q. (BY MR. JAMES) And I've seen references</p> <p>23 to the NC- -- NCI in your report, correct?</p> <p>24 A. Yes.</p>	<p style="text-align: right;">Page 164</p> <p>1 this page. I have seen it before.</p> <p>2 Q. So you've seen this PDQ document?</p> <p>3 A. Yes, I have.</p> <p>4 Q. And this document is not cited or</p> <p>5 discussed in your report, correct?</p> <p>6 A. It is not.</p> <p>7 Q. Why is that?</p> <p>8 A. I prefer to use peer-reviewed references</p> <p>9 rather than organizational websites or PDQs.</p> <p>10 Q. And you reference other organizations in</p> <p>11 your report, correct?</p> <p>12 A. Give me an example.</p> <p>13 Q. For example, do you reference IARC in your</p> <p>14 report?</p> <p>15 A. Oh, yes.</p> <p>16 Q. Okay. But here you decided not to</p> <p>17 recognize the NCI PDQ, correct?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. I think they're a different level of -- of</p> <p>20 standard between IARC and the PDQ.</p> <p>21 Q. (BY MR. JAMES) Are you familiar with the</p> <p>22 process employed to prepare the PDQ that's in front</p> <p>23 of you right now?</p> <p>24 A. I do not know what method that is.</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. And they're a frequent sponsor of studies</p> <p>2 and --</p> <p>3 A. Yes.</p> <p>4 Q. -- cancer research, correct?</p> <p>5 A. Yes.</p> <p>6 Q. I'm gonna mark as Exhibit Number 14 the</p> <p>7 NCI PDQ on Ovarian Cancer Prevention, Health</p> <p>8 Professional Version.</p> <p>9 (Deposition Exhibit 14 marked for</p> <p>10 identification.)</p> <p>11 Q. (BY MR. JAMES) And, Dr. Smith, is this</p> <p>12 the first time that you've seen this document?</p> <p>13 A. I believe so.</p> <p>14 Q. Okay. If you turn to -- unfortunately,</p> <p>15 it's not paginated. I'll do a manual count for you.</p> <p>16 If you flip seven pages and look on</p> <p>17 the backside of this double-sided copy.</p> <p>18 A. (Complied.) Okay.</p> <p>19 Q. Okay. At the top of that page there's a</p> <p>20 section titled, "Factors With Inadequate Evidence of</p> <p>21 an Association Risk of -- of Ovarian, Fallopian</p> <p>22 Tube, and Primary Peritoneal Cancer."</p> <p>23 Do you see where I'm reading?</p> <p>24 A. Yes. And do you know what, I recognize</p>	<p style="text-align: right;">Page 165</p> <p>1 Q. We see here on this PDQ on the page that I</p> <p>2 referred you to --</p> <p>3 A. Um-hum.</p> <p>4 Q. -- that below the category of "Factors</p> <p>5 With Inadequate Evidence," you see there that</p> <p>6 "Perineal talc exposure" is listed, correct?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. And can you read that first</p> <p>9 sentence for me in the section right there?</p> <p>10 A. "The weight of evidence does not support</p> <p>11 an association between perineal talc exposure and an</p> <p>12 increased risk of ovarian cancer."</p> <p>13 Q. And your litigation opinion offered here</p> <p>14 today is different than what the NCI states here,</p> <p>15 correct?</p> <p>16 A. Yes, it is.</p> <p>17 Q. In determining whether something is</p> <p>18 generally accepted, do you believe it would be</p> <p>19 appropriate to consult what the National Cancer</p> <p>20 Institute says with respect to the association</p> <p>21 between ovarian cancer and talc?</p> <p>22 MS. O'DELL: Object to the form.</p> <p>23 A. I have told you that I have seen this and</p> <p>24 I looked at the references they cited, which is a</p>

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<p>1 very limited portion of the medical literature.</p> <p>2 This is not an exhausted list of</p> <p>3 references. Certainly it lacks the most recent</p> <p>4 meta-analyses, so I think they didn't look at enough</p> <p>5 stuff.</p> <p>6 Q. (BY MR. JAMES) Do you think the recent</p> <p>7 meta-analyses are the -- are pieces of literature</p> <p>8 that are critical to the causation opinion --</p> <p>9 opinion you're reaching here today?</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 A. I believe they are more comprehensive and</p> <p>12 highly supportive.</p> <p>13 Q. (BY MR. JAMES) And the question that I</p> <p>14 asked earlier, I think that maybe I didn't get an</p> <p>15 answer to.</p> <p>16 Do you believe when opining about</p> <p>17 whether something is generally accepted it would be</p> <p>18 appropriate to consult what the National Cancer</p> <p>19 Institute has to say about the topic?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. I've read it. It's not worthy of</p> <p>22 citation.</p> <p>23 Q. (BY MR. JAMES) Do you believe the opinion</p> <p>24 published by the NCI with respect to risk factors</p>	<p>1 ovarian cancer, you have also opined that talc is a</p> <p>2 generally accepted risk factor for ovarian cancer.</p> <p>3 Do you understand the distinction</p> <p>4 between those two opinions?</p> <p>5 MS. O'DELL: Object to form.</p> <p>6 A. I understand the difference in -- of those</p> <p>7 opinions.</p> <p>8 Q. (BY MR. JAMES) And with respect to the</p> <p>9 latter opinion, the opinion about what is generally</p> <p>10 accepted by the medical community, would you agree</p> <p>11 that the statement provided by the NCI in its PDQ is</p> <p>12 relevant to determining what is generally accepted</p> <p>13 as a risk factor?</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 A. I don't -- I don't think that physicians</p> <p>16 go to the PDQ and say, "If that's what the NCI says,</p> <p>17 that's what I believe."</p> <p>18 To find out the number of, for</p> <p>19 example, obstetricians/gynecologists who believe</p> <p>20 talcum powder products are a significant contributor</p> <p>21 to ovarian cancer, I believe to answer that</p> <p>22 question, we'd have to survey those people.</p> <p>23 Q. (BY MR. JAMES) I think I've asked my</p> <p>24 question enough times there.</p>
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<p>1 and ovarian cancer is informative to your opinion</p> <p>2 about what is generally accepted as a risk factor</p> <p>3 for ovarian cancer?</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 A. I sought other references in peer-reviewed</p> <p>6 journals to compile my risk factor list.</p> <p>7 Q. (BY MR. JAMES) Do you believe the NCI PDQ</p> <p>8 paper is relevant to forming an opinion about what</p> <p>9 is generally accepted by the medical community?</p> <p>10 MS. O'DELL: Objection --</p> <p>11 A. It is not relevant --</p> <p>12 MS. O'DELL: Excuse me. Objection;</p> <p>13 asked and answered.</p> <p>14 A. It is not relevant to my opinion because</p> <p>15 it is not comprehensive.</p> <p>16 Q. (BY MR. JAMES) And when you say it's not</p> <p>17 relevant to your opinion, are you speaking about</p> <p>18 your opinion on causation?</p> <p>19 A. Yes.</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 Q. (BY MR. JAMES) And --</p> <p>22 A. Well, and risk factor. Yes, all of it.</p> <p>23 Q. But in your report you've -- in addition</p> <p>24 to opine -- opining that talc is causative of</p>	<p>1 What risk factors for ovarian cancer</p> <p>2 do you believe have been scientifically demonstrated</p> <p>3 to be synergistic or additive?</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 You may answer.</p> <p>6 A. BRCA and -- BRCA 1 and 2 status in oral</p> <p>7 contraceptive use has been demonstrated to be</p> <p>8 additive.</p> <p>9 Tubal ligation with nulliparity and</p> <p>10 other higher risk factors.</p> <p>11 The -- I'm looking up the name of the</p> <p>12 author again.</p> <p>13 MS. O'DELL: What are you referring</p> <p>14 to, Dr. Smith?</p> <p>15 (Deposition Exhibit 15 referenced.)</p> <p>16 A. The multiple risk factor studies of</p> <p>17 Vitonis, Titus-Ernstoff, and Cramer, 2011 and their</p> <p>18 five risk factors, one of which was talc, were</p> <p>19 cumulative in increasing your risk for -- as a</p> <p>20 scoring system for increasing your risk of ovarian</p> <p>21 cancer, so that's clearly an additive study. It</p> <p>22 doesn't look at synergy.</p> <p>23 Q. (BY MR. JAMES) So the Vitonis study that</p> <p>24 you mentioned you're saying looks at cumulativeness,</p>

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<p>1 but not synergy, correct?</p> <p>2 A. Synergy to me means you put two things</p> <p>3 together and they're bigger than their sum. And I</p> <p>4 haven't seen that in ovarian cancer risk factors.</p> <p>5 Q. As a whole or with respect to talc?</p> <p>6 MS. O'DELL: Object to form.</p> <p>7 A. As a whole.</p> <p>8 Q. (BY MR. JAMES) So you don't have an</p> <p>9 opinion that -- let me start over.</p> <p>10 Are there any ovarian cancer risk</p> <p>11 factors that you believe have been scientifically</p> <p>12 demonstrated to be synergistic?</p> <p>13 A. I can't think of any at this time.</p> <p>14 Q. Are there any risk factors for ovarian</p> <p>15 cancer that you believe have been scientifically</p> <p>16 demonstrated to be additive?</p> <p>17 A. Yes.</p> <p>18 Q. And what are those?</p> <p>19 MS. O'DELL: Objection; asked and</p> <p>20 answered.</p> <p>21 A. I just answered that question.</p> <p>22 THE WITNESS: May I see the Vitonis</p> <p>23 paper, please?</p> <p>24 MS. O'DELL: Sure.</p>	<p>1 additive.</p> <p>2 Q. And so this paper is discussing a</p> <p>3 hypothesis, correct?</p> <p>4 MS. O'DELL: Object to the form.</p> <p>5 A. That this paper has attempted to develop a</p> <p>6 risk factor score that may estimate patients who do</p> <p>7 not have documented genetic predisposition to</p> <p>8 ovarian cancer, so eliminating that possibility.</p> <p>9 And now -- or they're trying to</p> <p>10 develop a risk factor based score system to advise</p> <p>11 physicians on when to include oophorectomy with</p> <p>12 hysterectomy and salpingectomy.</p> <p>13 Q. (BY MR. JAMES) If you look with me at the</p> <p>14 first page in the Conclusion section of the</p> <p>15 abstract, Dr. Smith --</p> <p>16 A. Um-hum.</p> <p>17 Q. -- do you see there where it says that "We</p> <p>18 developed a risk-assessment tool that can quantify</p> <p>19 women's risk for ovarian cancer and should be</p> <p>20 validated in other data sets."</p> <p>21 Do you see that language?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Do you acknowledge that this paper</p> <p>24 represents a hypothesis?</p>
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<p>1 MR. JAMES: I'm gonna mark the Vitonis</p> <p>2 paper as Exhibit 15.</p> <p>3 (Deposition Exhibit 15 marked for</p> <p>4 identification.)</p> <p>5 (Discussion off the record.)</p> <p>6 Q. (BY MR. JAMES) Before we dig into the</p> <p>7 paper, Dr. Smith, and this may help move us along,</p> <p>8 in your report, you used the terminology</p> <p>9 "cumulative," "additive," and "synergistic."</p> <p>10 A. I do.</p> <p>11 Q. So synergistic we have discussed already,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. Do you believe "cumulative" and "additive"</p> <p>15 mean the same thing?</p> <p>16 A. Not necessarily.</p> <p>17 Q. Do you believe that it has been</p> <p>18 scientifically demonstrated that talc is cumulative</p> <p>19 with other risk factors?</p> <p>20 A. I'm not aware of such a paper.</p> <p>21 Q. Do you believe it has been scientifically</p> <p>22 demonstrated that talc is additive with other risk</p> <p>23 factors?</p> <p>24 A. I believe this paper suggests it's</p>	<p>1 MS. O'DELL: Object to the form.</p> <p>2 A. I -- it has not been validated by other</p> <p>3 studies that I am aware of.</p> <p>4 Q. (BY MR. JAMES) Okay. Dr. Smith, on</p> <p>5 page 9 you begin your review of the epidemiologic</p> <p>6 literature, correct?</p> <p>7 A. Yes, sir.</p> <p>8 Q. Okay. And I'm referring you there because</p> <p>9 we'll spend a little bit of the time walking through</p> <p>10 it together. Okay?</p> <p>11 A. Okay.</p> <p>12 Q. You start your analysis with a discussion</p> <p>13 of meta-analyses in the pooled study, correct?</p> <p>14 A. Correct.</p> <p>15 Q. What limitations do you believe there are</p> <p>16 with meta-analyses in general?</p> <p>17 A. Meta-analyses are statistical studies of</p> <p>18 single -- single site epidemiologic studies, but</p> <p>19 they are still retrospective in the tiers of level</p> <p>20 of evidence in medicine, case control, and cohort</p> <p>21 studies.</p> <p>22 All epidemiologic studies are all</p> <p>23 listed at Level 4, which is obviously not the</p> <p>24 highest level of evidence. So that's a big</p>

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<p>1 limitation to start with.</p> <p>2 Q. Any other limitations that you can</p> <p>3 identify, sitting here today, with respect to</p> <p>4 meta-analyses?</p> <p>5 A. I am not an expert on statistical methods,</p> <p>6 but I know there are multiple different statistical</p> <p>7 tools to perform meta-analyses, and I'm sure a</p> <p>8 biostatistician could give you a better discussion</p> <p>9 of that.</p> <p>10 Q. So on page 9, you start with your</p> <p>11 discussion of the 1992 Harlow meta-analysis,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 Q. How would you characterize the odds ratio</p> <p>15 reported in that meta-analysis?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. It's -- the authors conclude there's</p> <p>18 associated, albeit modest, between ovarian cancer</p> <p>19 and peritoneal talc use.</p> <p>20 In their study, their meta-analysis</p> <p>21 was 1.5, 0.9; but in all studies involved for 1100</p> <p>22 patients, which is still a really small number,</p> <p>23 it's 1.3, confidence intervals 1.1 to 1.6.</p> <p>24 Q. (BY MR. JAMES) And just to be clear,</p>	<p>1 (Deposition Exhibit 16 marked for</p> <p>2 identification.)</p> <p>3 Q. (BY MR. JAMES) And, Dr. Smith, just --</p> <p>4 just to make sure we're framed correctly here, my</p> <p>5 question to you is: How you would -- how would you</p> <p>6 characterize an odds ratio of 1.3?</p> <p>7 MS. O'DELL: Objection to form.</p> <p>8 A. Depends on what the confidence intervals</p> <p>9 are, but it's -- it reflects a 30 percent increase</p> <p>10 in whatever you're measuring.</p> <p>11 Q. (BY MR. JAMES) Would you characterize the</p> <p>12 association as weak?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. 30 percent. It's relative. 30 percent</p> <p>15 more ovarian cancer is not weak. It's fatal.</p> <p>16 Q. (BY MR. JAMES) That's not the question</p> <p>17 that I asked.</p> <p>18 The question I asked is --</p> <p>19 A. I wouldn't call it weak.</p> <p>20 MS. O'DELL: Excuse me. Sorry.</p> <p>21 THE WITNESS: Sorry.</p> <p>22 MS. O'DELL: Let him finish and let me</p> <p>23 object. Go ahead.</p> <p>24 Q. (BY MR. JAMES) How would you characterize</p>
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<p>1 Dr. Smith, the meta-analysis odds ratio for this</p> <p>2 paper is -- the crude odds ratio is 1.3, correct?</p> <p>3 MS. O'DELL: Objection to form.</p> <p>4 A. Yes, but it says "all studies."</p> <p>5 THE WITNESS: Do you want to pull this</p> <p>6 out --</p> <p>7 MS. O'DELL: Um-hum.</p> <p>8 THE WITNESS: -- so I can --</p> <p>9 MS. O'DELL: Sure.</p> <p>10 THE WITNESS: -- look at it?</p> <p>11 MR. JAMES: Leigh, I probably have it</p> <p>12 as well.</p> <p>13 Did you beat me to it?</p> <p>14 THE WITNESS: Yep. Well, she did. I</p> <p>15 didn't.</p> <p>16 MS. O'DELL: I was trying to redeem</p> <p>17 myself from not alphabetizing correctly before.</p> <p>18 Do you want to mark it, and I'll --</p> <p>19 MR. JAMES: Sure.</p> <p>20 BY MS. O'DELL: -- have to hand it to</p> <p>21 her.</p> <p>22 MR. JAMES: I'm gonna mark the</p> <p>23 Harlow '92 study as Exhibit 16.</p> <p>24 A. Let me go to this one. Easier for --</p>	<p>1 the 1.3, please?</p> <p>2 A. 30 percent.</p> <p>3 Q. Would you characterize it as a strong</p> <p>4 association?</p> <p>5 A. I would characterize it as statistically</p> <p>6 significant number.</p> <p>7 Q. Would you characterize it as a modest</p> <p>8 association?</p> <p>9 A. Modest, weak suggests unimportant, and I</p> <p>10 would not call it unimportant.</p> <p>11 Q. Do you understand that the authors of this</p> <p>12 paper use the terminology "modest"?</p> <p>13 A. Yes, they did.</p> <p>14 Q. Okay. Do you think that when they use</p> <p>15 that terminology they were calling it unimportant?</p> <p>16 A. I think that they suggested that it was</p> <p>17 small in size. Small increase, modest increase,</p> <p>18 that's what they were meaning.</p> <p>19 Q. And you understand one of the factors that</p> <p>20 experts use in evaluating an epidemiological body of</p> <p>21 literature is the strength of an association,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. And you discuss that later in your report,</p>

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<p style="text-align: right;">Page 178</p> <p>1 correct?</p> <p>2 A. I do.</p> <p>3 Q. And so my question here is whether, in</p> <p>4 your expert opinion, a 1.3 odds ratio can be</p> <p>5 characterized as strong, modest, weak, or another</p> <p>6 adjective?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. I will use the authors term as modest.</p> <p>9 I'll accept that word.</p> <p>10 Q. (BY MR. JAMES) Would you also accept the</p> <p>11 terminology "weak," if the authors use that term?</p> <p>12 A. Did they use that term? Can you show me</p> <p>13 where they use the word "weak"?</p> <p>14 Q. You can turn to the last page. Usually</p> <p>15 I'm asking questions, but I'm happy to try to point</p> <p>16 you out to what I'm discussing. Page 26 of the</p> <p>17 Harlow paper.</p> <p>18 A. Um-hum.</p> <p>19 Q. Okay. Do you see the last paragraph</p> <p>20 there?</p> <p>21 A. Yes.</p> <p>22 Q. That first sentence?</p> <p>23 A. Oh, they did use the word "weak." If the</p> <p>24 authors use it, I will quote them.</p>	<p style="text-align: right;">Page 180</p> <p>1 Q. Okay. And here you note in the report, if</p> <p>2 you turn the page, Dr. Smith, you have copied in a</p> <p>3 table from the article, correct?</p> <p>4 A. Correct.</p> <p>5 Q. In here, we see that according to your</p> <p>6 report the odds ratio is a 1.29, correct?</p> <p>7 A. It is.</p> <p>8 Q. And, again, how would you characterize a</p> <p>9 1.29 odds ratio?</p> <p>10 A. A 29 percent increase in ovarian cancer</p> <p>11 after talc exposure.</p> <p>12 Q. And would you characterize that</p> <p>13 association as strong, modest, weak, or another</p> <p>14 adjective?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. Are those my only choices?</p> <p>17 Q. (BY MR. JAMES) No, I gave you another</p> <p>18 adjective choice at the end of my question.</p> <p>19 MS. O'DELL: Objection.</p> <p>20 A. You gave me strong, modest, weak.</p> <p>21 Q. (BY MR. JAMES) I'm sorry if I -- maybe I</p> <p>22 misspoke, but I'm just asking you if you'd</p> <p>23 characterize a 1.29 as strong, modest, weak, or</p> <p>24 choose another adjective if you'd like.</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Will you accept that terminology to</p> <p>2 describe the 1.3?</p> <p>3 MS. O'DELL: Object to the form.</p> <p>4 A. I -- in light of the larger body that's</p> <p>5 coming up, I will not accept that.</p> <p>6 Q. (BY MR. JAMES) You --</p> <p>7 A. That's my personal opinion.</p> <p>8 Q. Is your personal opinion guided by</p> <p>9 principles of epidemiology?</p> <p>10 MS. O'DELL: Objection to form.</p> <p>11 A. Yeah, I think so.</p> <p>12 Q. (BY MR. JAMES) You disagree with the</p> <p>13 characterization of the association by the authors</p> <p>14 of the study that you cite, correct?</p> <p>15 MS. O'DELL: Objection; asked and</p> <p>16 answered.</p> <p>17 A. Happens, yes.</p> <p>18 Q. (BY MR. JAMES) Okay. Dr. Smith, looking</p> <p>19 at your report, returning to the second study that</p> <p>20 you cite, you cite the Gross and Berg study; is that</p> <p>21 correct?</p> <p>22 A. I do.</p> <p>23 Q. That's from 1995, correct?</p> <p>24 A. It is.</p>	<p style="text-align: right;">Page 181</p> <p>1 MS. O'DELL: Object -- excuse me.</p> <p>2 Object to form.</p> <p>3 A. Statistically significant.</p> <p>4 Q. (BY MR. JAMES) Would you acknowledge that</p> <p>5 there are statistically significant associations</p> <p>6 that in epidemiological community would be referred</p> <p>7 to as weak?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. The rate of dissolution of an aspirin</p> <p>10 tablet in the stomach, coated or noncoated, in terms</p> <p>11 of time to analgesia may be statistically</p> <p>12 significantly different if there's a 30 second</p> <p>13 difference between coated and noncoated.</p> <p>14 But that is a statistical significant</p> <p>15 difference that I find is not clinically</p> <p>16 significant. Whether your headache goes away</p> <p>17 30 seconds sooner or later isn't clinically</p> <p>18 significant to me; whereas, a 29 percent increase</p> <p>19 risk of ovarian cancer is very clinically</p> <p>20 significant to me.</p> <p>21 Q. (BY MR. JAMES) Do you understand that</p> <p>22 epidemiologists judge odds ratios based upon their</p> <p>23 strength?</p> <p>24 MS. O'DELL: Object to the form.</p>

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<p>1 A. They may use adjectives to quantitate the</p> <p>2 amount of difference in terms of size or strength</p> <p>3 and they may use words "modest." I understand they</p> <p>4 do that.</p> <p>5 Q. Do you understand --</p> <p>6 MS. O'DELL: Excuse me.</p> <p>7 Are -- I'm sorry. Are you finished,</p> <p>8 Dr. Smith?</p> <p>9 THE WITNESS: Yes.</p> <p>10 Q. (BY MR. JAMES) Do you understand that in</p> <p>11 judging associations, epidemiologists -- do you have</p> <p>12 expertise in epidemiology, Dr. Smith?</p> <p>13 A. I do not.</p> <p>14 Q. You do not?</p> <p>15 A. Just reading them; not doing them.</p> <p>16 Q. Do you understand that the weaker an odds</p> <p>17 ratio for an epidemiologist, that that bears some</p> <p>18 significance to an epidemiologist in making a causal</p> <p>19 conclusion?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. It is one of Bradford Hill's nine factors</p> <p>22 or pos- -- he did -- didn't want to call them</p> <p>23 postulates.</p> <p>24 One of Bradford Hill -- I forget the</p>	<p>1 Q. (BY MR. JAMES) All right. The next study</p> <p>2 you discuss. And we're still on page 10, Dr. Smith,</p> <p>3 is the Cramer 1999 study.</p> <p>4 A. Yes.</p> <p>5 Q. And, I believe, just like with the prior,</p> <p>6 you have copied in a table from that study, right?</p> <p>7 A. Once you learn it on the computer, you</p> <p>8 just keep doing it.</p> <p>9 Q. Sure. And do you see there with the table</p> <p>10 that you've inputted into your report the odds</p> <p>11 ratio, a summary odds ratio of 1.4; is that right?</p> <p>12 A. I do.</p> <p>13 Q. Again, if the authors referred to that</p> <p>14 association in the paper as a relatively weak odds</p> <p>15 ratio, would you accept their terminology?</p> <p>16 MS. O'DELL: Do you happen to have</p> <p>17 that paper handy?</p> <p>18 THE WITNESS: You seem to be getting</p> <p>19 there faster than we are.</p> <p>20 I'm missing 14. Where did 14 go?</p> <p>21 Q. (BY MR. JAMES) I'll mark it as Exhibit --</p> <p>22 I think we're at 17?</p> <p>23 (Deposition Exhibit 17 marked for</p> <p>24 identification.)</p>
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<p>1 word he used -- nine factors in assessing causation</p> <p>2 and significance of epidemiologic findings.</p> <p>3 Q. (BY MR. JAMES) Do you agree that when an</p> <p>4 association is lower, weaker, smaller, or more</p> <p>5 modest, that the smaller, weaker, or more modest</p> <p>6 that it gets, even if it's statistically</p> <p>7 significant, the lower the odds ratio becomes the</p> <p>8 more concerned you become as an epidemiologist or as</p> <p>9 an expert with whether that association is due to</p> <p>10 chance, bias, confounding?</p> <p>11 MS. O'DELL: Obj- --</p> <p>12 Q. (BY MR. JAMES) Do you accept that?</p> <p>13 MS. O'DELL: Excuse me. Objection to</p> <p>14 the form.</p> <p>15 A. It depends. It depends on if this is a</p> <p>16 single study, a small-numbered study, or whether</p> <p>17 that small result is consistent, reproducible over a</p> <p>18 wide number of studies.</p> <p>19 Q. (BY MR. JAMES) Would you agree that the</p> <p>20 smaller the association the more concern there is --</p> <p>21 there -- there is with confounding, chance, or bias?</p> <p>22 MS. O'DELL: Excuse me. Objection;</p> <p>23 asked and answered.</p> <p>24 A. Not necessarily.</p>	<p>1 THE WITNESS: Are you get -- are you</p> <p>2 going -- I'm missing some of your exhibits.</p> <p>3 MS. O'DELL: We'll -- we'll straighten</p> <p>4 it out.</p> <p>5 THE WITNESS: Okay. I'm not</p> <p>6 responsible for that?</p> <p>7 MS. O'DELL: You are not responsible.</p> <p>8 THE WITNESS: Okay. I will quit</p> <p>9 worrying about it.</p> <p>10 And I dropped my mike. I'm sorry.</p> <p>11 Can you still hear me, sir?</p> <p>12 THE VIDEOGRAPHER: I can hear you.</p> <p>13 THE WITNESS: Okay.</p> <p>14 A. Yes, he does use "the relatively weak odds</p> <p>15 ratio observed."</p> <p>16 Q. (BY MR. JAMES) Would you agree with that</p> <p>17 conclusion in the study that you cite?</p> <p>18 A. As an epidemiologist, I think he's using</p> <p>19 epidemiologist speak. It's not my word choice.</p> <p>20 Q. You are here evaluating a body of</p> <p>21 epidemiologic literature, correct?</p> <p>22 A. I am. As a clinician and expert on</p> <p>23 ovarian cancer.</p> <p>24 Q. And do you see here where the authors of</p>

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<p>1 this article that you cited say in that same</p> <p>2 paragraph, quote, "Despite the consistency noted</p> <p>3 above, the relatively weak odds ratio observed could</p> <p>4 reflect potential biases, especially recall and</p> <p>5 confounding"?</p> <p>6 A. Yes. And then they go on to say:</p> <p>7 (Paraphrasing.) Recall bias seems more likely to</p> <p>8 affect exposures that occurred over a short period</p> <p>9 of time than those occurred long ago. The average</p> <p>10 duration of talc exceeded 20 years in both cases,</p> <p>11 genital talc exposure may be less likely to be</p> <p>12 subject to recall bias.</p> <p>13 And I cite that exact thing in</p> <p>14 quotations in my report. It is restated on</p> <p>15 page 356, I believe.</p> <p>16 Q. So that you cite the portion of the</p> <p>17 statement that you read, correct?</p> <p>18 A. Correct.</p> <p>19 Q. Okay. But you didn't cite the statement</p> <p>20 that I read into the record, correct?</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. Correct.</p> <p>23 Q. (BY MR. JAMES) Did you cite the portion</p> <p>24 of this -- of the article that supports your</p>	<p>1 response in your report?</p> <p>2 A. (Examined exhibit.) He -- I do not</p> <p>3 discuss it in my report. He himself called</p> <p>4 dose-response relationship, quote, "weak," unquote.</p> <p>5 Q. And you would agree that's an important</p> <p>6 finding of the study, correct?</p> <p>7 A. I think you ought to look at every study</p> <p>8 to see if it has a dose-response relationship.</p> <p>9 Q. Including this one, correct?</p> <p>10 A. Every study. Yes, including this one.</p> <p>11 Q. All right. Next, Dr. Smith, you discuss</p> <p>12 the Huncharek study, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And in the text --</p> <p>15 THE WITNESS: Are you just going to</p> <p>16 supply that to us?</p> <p>17 MR. JAMES: I can or the --</p> <p>18 THE WITNESS: I'd like to have the</p> <p>19 studies as we discuss them, if you wouldn't mind.</p> <p>20 MR. JAMES: Absolutely. And --</p> <p>21 absolutely.</p> <p>22 And right now, I'm looking at your</p> <p>23 report with you as well, so . . .</p> <p>24 THE WITNESS: Sure. Sure. But they</p>
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<p>1 opinion?</p> <p>2 MS. O'DELL: Objection to the form.</p> <p>3 A. I sub- -- quoted the part of the paper</p> <p>4 where the author specifically addressed concerns</p> <p>5 about recall, bias, and found them unlikely. I</p> <p>6 think it's important that he thought of it. I think</p> <p>7 it's real important that he thought of it.</p> <p>8 But I think he, and every author, in</p> <p>9 every study should go through his or her study with</p> <p>10 a fine-tune comb that says "What -- "Why should I</p> <p>11 believe these results?</p> <p>12 "What could I -- how -- what could I</p> <p>13 have made a mistake?</p> <p>14 "What are confounding factors?</p> <p>15 "Where is the bias that could've been</p> <p>16 introduced?</p> <p>17 "Did I draw my conclusion from the</p> <p>18 data in my study?"</p> <p>19 That's what every good author does,</p> <p>20 and so he did that. And then he answered his own</p> <p>21 question, "No, I don't think that's a confounding</p> <p>22 factor."</p> <p>23 Q. (BY MR. JAMES) In discussing this study,</p> <p>24 do you discuss Dr. Cramer's findings on dose</p>	<p>1 have -- I -- mine is a summary. You got the real</p> <p>2 thing.</p> <p>3 MR. JAMES: Sure. As do you. But I'm</p> <p>4 happy to give you my copy.</p> <p>5 THE WITNESS: Well, Ms. O'Dell does</p> <p>6 not mind getting every study for us. She's . . .</p> <p>7 MR. JAMES: All right. So I'm going</p> <p>8 to mark the Huncharek study as Exhibit Number 18.</p> <p>9 (Deposition Exhibit 18 marked for</p> <p>10 identification.)</p> <p>11 A. Thank you. (Examined exhibit.)</p> <p>12 Q. (BY MR. JAMES) And you note in your</p> <p>13 report an odds ratio of 1.33, correct?</p> <p>14 A. Yes. Ever versus never exposure,</p> <p>15 "Relative risk of 1.33 with a 95% confidence</p> <p>16 interval of 1.16 to 1.45, a statistically</p> <p>17 significant result suggesting a 33% increased risk</p> <p>18 of ovarian cancer." That is a quote from the study.</p> <p>19 Q. Dr. Smith, would -- how would you</p> <p>20 characterize a 1.33 odds ratio?</p> <p>21 A. 33 percent --</p> <p>22 Q. Okay. And would --</p> <p>23 A. -- clinically significant, statistically</p> <p>24 significant.</p>

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<p>1 Q. You recognize that all statistically</p> <p>2 significant associations cannot be described as</p> <p>3 strong, correct?</p> <p>4 A. No. We've been through this.</p> <p>5 MS. O'DELL: Objection to form.</p> <p>6 A. Not all statistical significant -- you</p> <p>7 used the word "strong." I used the word "clinically</p> <p>8 significant." Those are different things.</p> <p>9 Q. (BY MR. JAMES) I agree with you. And I'm</p> <p>10 asking you about strength.</p> <p>11 MS. O'DELL: Could you repeat your</p> <p>12 question, please?</p> <p>13 MR. JAMES: I'd be happy to.</p> <p>14 Q. (BY MR. JAMES) Would you characterize the</p> <p>15 odds ratio in this paper as strong, modest, weak or</p> <p>16 another adjective that you prefer?</p> <p>17 MS. O'DELL: Object to the form; asked</p> <p>18 and answered.</p> <p>19 MR. JAMES: It hasn't been asked.</p> <p>20 A. Clinically, statistically significant.</p> <p>21 That's the word I'm gonna use.</p> <p>22 Q. (BY MR. JAMES) Is there a reason why</p> <p>23 you're uncomfortable characterizing the odds ratio</p> <p>24 with one of the adjectives strong --</p>	<p>1 there as dose response in the above sentence.</p> <p>2 Do you see where I've --</p> <p>3 A. Yes.</p> <p>4 Q. -- read that?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And what's your basis for that</p> <p>7 statement?</p> <p>8 A. This is -- I believe this is an ever/never</p> <p>9 study. Now, have you -- so if it's ever/never, you</p> <p>10 didn't use it or you ever used it. And so you --</p> <p>11 implicitly, you can't get dose response if you don't</p> <p>12 look at frequency and duration. And a lot of these</p> <p>13 talc studies are ever/never.</p> <p>14 Q. And this is not an attempt for a gotcha or</p> <p>15 anything like that, but I want to make sure we're</p> <p>16 looking at the same paper.</p> <p>17 So can you turn with me to page 1958?</p> <p>18 A. (Complied.)</p> <p>19 Q. And you see Table 2. There's a table</p> <p>20 there with dose response data.</p> <p>21 A. (Examined exhibit.) Well . . .</p> <p>22 Q. Do you see here that the --</p> <p>23 A. Yeah, I see --</p> <p>24 Q. I'm sorry.</p>
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<p>1 A. That, yeah --</p> <p>2 Q. -- modest or weak?</p> <p>3 A. -- epidemiologists use because weak in --</p> <p>4 I'm not an epidemiologist. Perhaps I don't have the</p> <p>5 epidemiologic --</p> <p>6 (Counsel conferring off the record.)</p> <p>7 A. Do you want me to wait while y'all talk?</p> <p>8 Q. (BY MR. JAMES) No, ma'am.</p> <p>9 A. I don't know the connotations of what</p> <p>10 "weak" means in epidemiologic circles. If it just</p> <p>11 means a small number, less than 2.0, weak, in my</p> <p>12 medical clinical brain implies unimportant, trivial.</p> <p>13 And I think that kind of difference, when you talk</p> <p>14 about ovarian cancer, is not trivial and it's not</p> <p>15 unimportant.</p> <p>16 So maybe that's my hang-up, and maybe</p> <p>17 it's because I'm not an epidemiologist. I'm a -- I</p> <p>18 am person who takes care -- or took care of patients</p> <p>19 with ovarian -- continues to take care of people</p> <p>20 with ovarian cancer.</p> <p>21 Q. You include the statement in your report</p> <p>22 that "The study" -- and I'm looking at your report</p> <p>23 now -- "did not collect the necessary data to permit</p> <p>24 this determination," in what you're referring to</p>	<p>1 A. -- I see your table.</p> <p>2 Q. Thank you.</p> <p>3 A. I see your table. Here it's used. And I</p> <p>4 see what I wrote, and I haven't reread this</p> <p>5 immediately prior to my deposition.</p> <p>6 MS. O'DELL: And if you need a few</p> <p>7 minutes to refresh yourself, Dr. Smith, feel free to</p> <p>8 do that.</p> <p>9 THE WITNESS: I hate to waste your</p> <p>10 time, but I'd like to do that.</p> <p>11 MS. O'DELL: Yes, please.</p> <p>12 MR. JAMES: Yeah. Can we go off the</p> <p>13 record while the Doctor reviews the paper?</p> <p>14 THE WITNESS: Sure.</p> <p>15 MR. JAMES: Leigh, Margaret, is that</p> <p>16 fine?</p> <p>17 MS. O'DELL: You know, if it's gonna</p> <p>18 take you a few minutes, I think --</p> <p>19 THE WITNESS: Yeah.</p> <p>20 MS. O'DELL: -- we'll go off. If it's</p> <p>21 gonna take you a minute or so, let's just give the</p> <p>22 Doctor a moment and we'll keep going.</p> <p>23 THE VIDEOGRAPHER: Going off the</p> <p>24 record. The time is 2:44 p.m.</p>

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<p>1 (A recess was taken from 2:44 p.m. 2 to 2:56 p.m.) 3 THE VIDEOGRAPHER: This marks the 4 beginning of Disk 3. Back on the record. The time 5 is 2:56 p.m. 6 Q. (BY MR. JAMES) Dr. Smith, you've had a 7 chance to look at the Huncharek paper, correct? 8 A. I have. 9 Q. And does that paper include data to permit 10 a conclusion as to dose response? 11 A. It does not. 12 Q. And what's your basis for that statement? 13 A. They only had dose response information 14 on 9 of the 16 studies, and the authors themselves 15 said only a small minority of studies contain dose 16 responses. 17 This is on page 1958, the left side 18 column, second paragraph that starts there about 19 halfway -- between one-third and one-half way down. 20 "Unfortunately, only limited data were 21 available and only a small minority of" -- oh, I 22 lost my place -- "only a small minority" -- 23 UNIDENTIFIED SPEAKER: (Inaudible.) 24 THE WITNESS: Okay.</p>	<p>1 must not be understanding you. 2 Q. Are you misunderstanding the paper? 3 MS. O'DELL: Objection to form. 4 A. No. 5 MS. O'DELL: She said she was 6 misunderstanding your question. 7 MR. JAMES: I'm posing the questions, 8 Leigh. Thank you. 9 Q. (BY MR. JAMES) Dr. Smith, you've stated 10 in your report that, quote, "The study did not 11 collect the necessary data to permit this 12 determination," close quote. 13 Do you see that? 14 A. Yes. 15 Q. And your position is that the 16 dose-response findings in this paper are a nullity? 17 Is that your position? 18 MS. O'DELL: Object to the form. 19 A. I don't know what you mean by "nullity," 20 but they didn't have sufficient data to determine a 21 clear dose response. 22 Q. (BY MR. JAMES) Okay. And yet we do see 23 here that the authors have made a conclusion about 24 dose response, correct?</p>
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<p>1 A. -- "only a small minority of studies 2 contain dose-response information of any type 3 and (2), substantial differences existed in dose 4 stratification levels among the studies reporting 5 such information. It is therefore not possible to 6 perform more sophisticated modeling of dose response 7 data." 8 Final -- far- -- farther down on that, 9 "The lowest half exposure category in this Cramer 10 study was 'less than 30' applications, which is not 11 consistent with other 'low.'" 12 "Taken together, these" -- last 13 sentence, "Taken together, these data show a lack of 14 clear dose-response relationship." Okay. 15 Q. (BY MR. JAMES) So you concluded your 16 answer to my question with a sentence in the paper 17 that says, quote, "Taken together, these data show a 18 lack of a clear dose-response relationship," close 19 quote, correct? 20 A. Correct. 21 MS. O'DELL: Object to the form. 22 Q. (BY MR. JAMES) So the authors have made 23 conclusions about dose response, correct? 24 A. They can't. They said they couldn't. I</p>	<p>1 MS. O'DELL: Object to the form. 2 A. "Despite the findings, the data showed a 3 lack of clear dose-response relationship, making the 4 relative risk of questionable validity." That's in 5 their abstract. 6 So I don't see where they say they 7 have made a clear dose-response relationship. 8 Q. (BY MR. JAMES) Okay. Let's just let the 9 language of the paper speak for itself and we can 10 move on. 11 MS. O'DELL: Object to the form. 12 Q. (BY MR. JAMES) Next you discuss the 13 Langseth study, correct? 14 A. Yes, sir. 15 Q. And on page 12 of your report, you quote 16 the statement in the paper, and I'm gonna mark it as 17 Exhibit Number 19. 18 (Deposition Exhibit 19 marked for 19 identification.) 20 Q. (BY MR. JAMES) Okay. I'm handing you a 21 clean copy of Exhibit Number 19 of Langseth. 22 A. Thank you. 23 Q. Okay. In your report you quote the 24 article for the proposition --</p>

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<p style="text-align: right;">Page 198</p> <p>1 A. You gave me two copies.</p> <p>2 THE WITNESS: Does somebody else need</p> <p>3 another one?</p> <p>4 Q. (BY MR. JAMES) -- for the proposition</p> <p>5 that the epide- -- "epidemiological evidence</p> <p>6 suggests that the use of cosmetic talc in the</p> <p>7 perineal area may be associated with ovarian cancer</p> <p>8 risk."</p> <p>9 That's what you quote in your report,</p> <p>10 correct?</p> <p>11 A. Correct.</p> <p>12 Q. If you look at the second page of the</p> <p>13 article in the section titled "Proposal: To Research</p> <p>14 Community," do you see where I am?</p> <p>15 A. I do.</p> <p>16 Q. Okay. The authors there state, quote,</p> <p>17 "The current body of experimental and</p> <p>18 epidemiological evidence is insufficient to</p> <p>19 establish a causal association between perineal use</p> <p>20 of talc and ovarian cancer risk," close quote.</p> <p>21 Do you see where I read that?</p> <p>22 A. I do.</p> <p>23 Q. And that conclusion of the author -- or</p> <p>24 the authors is not included in your report, is it?</p>	<p style="text-align: right;">Page 200</p> <p>1 Q. Sorry.</p> <p>2 A. -- cite that.</p> <p>3 Q. And, again, you -- in your report, you</p> <p>4 concluded that meta-analyses are -- I think you used</p> <p>5 the terminology "most valid" way to look at this</p> <p>6 issue; is that right?</p> <p>7 A. Okay. I think they're the best we have,</p> <p>8 and I think they are the best we are going to have.</p> <p>9 The best studies to determine</p> <p>10 causation are randomized, controlled, prospective</p> <p>11 trials, and more than one of them. That's what's</p> <p>12 called Level 1 evidence.</p> <p>13 There is no ethical way we can apply</p> <p>14 any possible carcinogen, suspected carcinogen,</p> <p>15 proven carcinogen to the perineum of any woman and</p> <p>16 have that be ethically acceptable. That study</p> <p>17 cannot be done.</p> <p>18 We are going to have to validate the</p> <p>19 epidemiologic data in the laboratory, because that's</p> <p>20 the only ethical place.</p> <p>21 Q. And you understand the length of study is</p> <p>22 authored by the IARC Working Group, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And do you understand that IARC has</p>
<p style="text-align: right;">Page 199</p> <p>1 MS. O'DELL: Object to the form.</p> <p>2 A. It is not. I don't agree with that</p> <p>3 conclusion.</p> <p>4 Q. (BY MR. JAMES) So this is another paper</p> <p>5 that you've cited where you disagree with the</p> <p>6 authors' conclusions, correct?</p> <p>7 A. Correct. They have a statistically</p> <p>8 significant overall risk of 1.35 -- between 1.26</p> <p>9 to 1.46, so that is -- and then it says on research</p> <p>10 report what this study shows, "Epidemiologic [sic]</p> <p>11 evidence suggests the use of cosmetic talc in the</p> <p>12 perineal area may be associated with ovarian cancer</p> <p>13 risk."</p> <p>14 Q. That's the portion that you've cited in</p> <p>15 your report, correct?</p> <p>16 A. Yes, that is exactly what I quoted.</p> <p>17 Q. But you didn't quote the sentence that I</p> <p>18 read that specifically disclaims a causal</p> <p>19 association, correct?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 Q. (BY MR. JAMES) Or --</p> <p>22 A. I --</p> <p>23 Q. Well, let me --</p> <p>24 A. I did not --</p>	<p style="text-align: right;">Page 201</p> <p>1 classifi- -- classified perineal talc application as</p> <p>2 a 2B?</p> <p>3 MS. O'DELL: Objection to --</p> <p>4 Q. (BY MR. JAMES) Do you understand that?</p> <p>5 MS. O'DELL: Excuse me. Object to the</p> <p>6 characteration -- characterization regarding the</p> <p>7 working group.</p> <p>8 A. IARC 93 classified talc as a 2B possible</p> <p>9 carcinogen.</p> <p>10 Q. (BY MR. JAMES) Do you understand IARC has</p> <p>11 not classified talc as a carcinogen, correct?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. Correct.</p> <p>14 Q. (BY MR. JAMES) And IARC has not</p> <p>15 classified talc as a probable carcinogen, correct?</p> <p>16 A. Correct.</p> <p>17 Q. The conclusion that you're offering -- the</p> <p>18 opinion that you're offering here today conflicts</p> <p>19 with the IARC 2B finding, correct?</p> <p>20 MS. O'DELL: Objection to form.</p> <p>21 A. I told you that a study can't apply</p> <p>22 anything that's a possible, and I didn't say talc in</p> <p>23 any study.</p> <p>24 I said the model for a randomized</p>

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<p>1 controlled trial would be apply whatever substance</p> <p>2 you want to women and see if they result in this</p> <p>3 disease.</p> <p>4 But if you start with a possible,</p> <p>5 probable, or absolutely carcinogen, you're never</p> <p>6 gonna -- you can't -- you can't even write that down</p> <p>7 on the paper. That's not going anywhere.</p> <p>8 That study will -- multiple studies we</p> <p>9 need -- we needed to have to have Level 1 evidence</p> <p>10 will never be done.</p> <p>11 Q. (BY MR. JAMES) And I think that your</p> <p>12 answer maybe wasn't responsive to my question.</p> <p>13 And so my question is whether the</p> <p>14 causation opinion you're offering in this litigation</p> <p>15 is different than the conclusion reached by IARC?</p> <p>16 A. IARC in -- based on data up to 2006,</p> <p>17 declared talc a 2B possible carcinogen.</p> <p>18 I believe that since 2006, in the past</p> <p>19 12 years, we have a plethora of data that leads me</p> <p>20 to the conclusion that talc is a Class 1 carcinogen.</p> <p>21 Q. You know IARC has not, to date, made that</p> <p>22 classification, correct?</p> <p>23 A. That's right.</p> <p>24 Q. Okay. Next in your report you discuss a</p>	<p>1 A. We've had this discussion before.</p> <p>2 Q. Okay. Fair enough.</p> <p>3 And your answers prior hold here as</p> <p>4 well?</p> <p>5 A. They hold.</p> <p>6 Q. Understood.</p> <p>7 In your report, I didn't see any</p> <p>8 discussion in the -- when you're mentioning the</p> <p>9 Terry paper of the paper's findings on dose</p> <p>10 response.</p> <p>11 Are you familiar with the</p> <p>12 dose-response findings in the Terry paper?</p> <p>13 A. Once more, I'll need a moment to look.</p> <p>14 (Examined exhibit.) They did -- there</p> <p>15 is no significant trend for increasing number of</p> <p>16 lifetime applications.</p> <p>17 Q. And if you see on page -- I think you're</p> <p>18 reading on page 817; is that right, Dr. Smith?</p> <p>19 A. I was reading from the abstracts.</p> <p>20 Q. Oh, yes, Doctor.</p> <p>21 If we also look at the page 812.</p> <p>22 A. (Complied.)</p> <p>23 Q. Do you see there where they say "Evidence</p> <p>24 for a dose-response relationship has been</p>
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<p>1 Terry pooled analysis, correct?</p> <p>2 A. Yes.</p> <p>3 Q. And, again, here in your report -- and we</p> <p>4 can mark Terry if that -- I'll hand you a copy of</p> <p>5 that.</p> <p>6 In your report you note the overall</p> <p>7 odds ratio in Terry is a 1.24, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And I'm gonna mark Terry as Exhibit</p> <p>10 Number 20.</p> <p>11 (Deposition Exhibit 20 marked for</p> <p>12 identification.)</p> <p>13 Q. (BY MR. JAMES) You see here that the</p> <p>14 Terry odds ratio of 1.24 is lower than some of the</p> <p>15 odds ratios reported in the prior meta-analyses,</p> <p>16 correct?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. Slightly. Well, let's see.</p> <p>19 (Examined exhibit.) 1.33. 1.24 is</p> <p>20 smaller. Yes, I agree with -- that 1.24 is lower</p> <p>21 than 1.33.</p> <p>22 Q. (BY MR. JAMES) Would you agree with the</p> <p>23 authors of this paper when they describe the odds</p> <p>24 ratio as a modest odds ratio?</p>	<p>1 inconsistent" or are you on another page?</p> <p>2 A. Did you say 812?</p> <p>3 Q. Yes, Doctor.</p> <p>4 A. The top?</p> <p>5 Q. Yes, The top.</p> <p>6 A. Yes. "Evidence of dose-response</p> <p>7 relationship has been inconsistent."</p> <p>8 Q. And is there a reason why you don't</p> <p>9 discuss the dose-response findings of Terry in your</p> <p>10 report?</p> <p>11 A. Because they didn't use -- they didn't</p> <p>12 observe the trend of increased risk applications. I</p> <p>13 mean, I -- it wasn't a pointed omission.</p> <p>14 MS. O'DELL: If you want to re- --</p> <p>15 need to review the paper.</p> <p>16 Q. (BY MR. JAMES) Dr. Smith, are you</p> <p>17 reviewing or may I continue with another question?</p> <p>18 A. Hold on one second. (Examined exhibit.)</p> <p>19 Q. Sure.</p> <p>20 A. (Paraphrasing.) No trend in cumulative</p> <p>21 use was evident in analyses restricted to ever-users</p> <p>22 of genital powder. Taken together, these</p> <p>23 observations suggest that the significant trend test</p> <p>24 largely reflects ever/never.</p>

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<p>1 I would -- I would suggest that I</p> <p>2 didn't mention a negative. I mean, it isn't there.</p> <p>3 Q. So that if a paper finds that there's no</p> <p>4 dose response, that's the basis for you not to</p> <p>5 report that finding?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. I think it didn't add anything to the body</p> <p>8 of this report.</p> <p>9 Q. (BY MR. JAMES) You acknowledge later in</p> <p>10 your report that whether or not the literature</p> <p>11 reports a dose response, one way or the other, is</p> <p>12 important to the causative analysis, correct?</p> <p>13 A. I accept that it -- I could have improved</p> <p>14 my report by including that negative information.</p> <p>15 Q. And if you look at the page 820 of the</p> <p>16 Terry article -- it's at the very end of the</p> <p>17 article. We see in the language at the top of the</p> <p>18 right column that the authors conclude, quote, "More</p> <p>19 work is needed to understand how genital powders may</p> <p>20 exert a carcinogenic effect, and which constituents</p> <p>21 (e.g., talc) may be involved."</p> <p>22 MS. O'DELL: Object to form.</p> <p>23 A. I would agree with that wholeheartedly.</p> <p>24 Q. (BY MR. JAMES) So as of 2013, Dr. Smith,</p>	<p>1 ratio of the 1.25 is less than the overall odds</p> <p>2 ratio reported of the 1.31, correct?</p> <p>3 A. I --</p> <p>4 Q. And another -- maybe an easier place to</p> <p>5 reference, Dr. Smith, would be the abstract in the</p> <p>6 results section.</p> <p>7 A. No. I believe I used the serous invasion</p> <p>8 rather than all. And that -- that's just -- I</p> <p>9 should've put "serous carcinoma" there, not "all."</p> <p>10 That's just a flat out mistake.</p> <p>11 Q. And if we see in the Results section,</p> <p>12 Dr. Smith, we see -- and this is in the abstract</p> <p>13 portion of the paper, they report that the odds</p> <p>14 ratio with any perineal talc use associated with</p> <p>15 ovarian cancer --</p> <p>16 MS. O'DELL: Where -- where are you</p> <p>17 reading from?</p> <p>18 MR. JAMES: I'm in the abstract in the</p> <p>19 Results section.</p> <p>20 MS. O'DELL: Okay.</p> <p>21 MR. JAMES: This is 1.31.</p> <p>22 A. Yeah. That's just a typo. Yeah, 1.31 --</p> <p>23 Q. (BY MR. JAMES) And then --</p> <p>24 MS. O'DELL: Excuse me.</p>
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<p>1 the Terry authors are concluding that the --</p> <p>2 concluding that whether or not talc exerts a</p> <p>3 carcinogenic effect is undetermined, correct?</p> <p>4 MS. O'DELL: Object to the form;</p> <p>5 misstates the record.</p> <p>6 A. That's what they stated, exactly. And I</p> <p>7 would agree more work needs to be done.</p> <p>8 Q. (BY MR. JAMES) All right. Finally,</p> <p>9 Dr. Smith, you discuss the Penninkilampi --</p> <p>10 A. Yes.</p> <p>11 Q. -- study, correct?</p> <p>12 A. Yes.</p> <p>13 Q. I'm gonna mark the Penninkilampi study as</p> <p>14 Exhibit Number 21.</p> <p>15 (Deposition Exhibit 21 marked for</p> <p>16 identification.)</p> <p>17 Q. (BY MR. JAMES) In your report, Dr. Smith,</p> <p>18 you refer to the odds ratio with -- associated with</p> <p>19 long-term powder use as a 1.25, correct?</p> <p>20 A. Correct.</p> <p>21 Q. And if we look at Figure 2 of the study --</p> <p>22 or it's Table 2 --</p> <p>23 A. (Complied.)</p> <p>24 Q. -- you see that the long-term use odds</p>	<p>1 Q. (BY MR. JAMES) Let me finish.</p> <p>2 MS. O'DELL: Let him finish, please.</p> <p>3 A. I'm sorry.</p> <p>4 Q. (BY MR. JAMES) So the abstract reports</p> <p>5 that the overall odds ratio was a 1.31. But if you</p> <p>6 continue on reading in the abstract, you see that</p> <p>7 the long-term talc use odds ratio is a 1.25.</p> <p>8 Do you see that?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. Okay. How far down did you go? I see</p> <p>11 "any," then "more than 3600 lifetime applications"</p> <p>12 is 1.42.</p> <p>13 And ever use is 1.35, 1.27, 1.43 in</p> <p>14 case control, but not cohort studies.</p> <p>15 Q. (BY MR. JAMES) Okay. And my apol- --</p> <p>16 A. "However" --</p> <p>17 Q. Oh, sorry, Doctor.</p> <p>18 A. -- is that where -- is that where you are?</p> <p>19 Is that the right sentence now?</p> <p>20 Q. If -- if I may. If I may refer you back</p> <p>21 to Figure 2 and not Table 2, I think that will get</p> <p>22 us there quicker.</p> <p>23 MS. O'DELL: I'm sorry, Scott. I'm</p> <p>24 sort of confused.</p>

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<p style="text-align: right;">Page 210</p> <p>1 MR. JAMES: Sure. And I'm gonna --</p> <p>2 I'm straightening this up right now.</p> <p>3 THE WITNESS: Okay. Okay.</p> <p>4 Q. (BY MR. JAMES) So we're looking at</p> <p>5 Figure 2, which is where I initially --</p> <p>6 A. Okay.</p> <p>7 Q. -- tried to get us.</p> <p>8 A. Okay. So -- okay. So the -- yes.</p> <p>9 MS. O'DELL: Okay. Excuse me. Let</p> <p>10 him --</p> <p>11 THE WITNESS: I'm sorry.</p> <p>12 MS. O'DELL: -- ask a question.</p> <p>13 Q. (BY MR. JAMES) So on page -- on</p> <p>14 Figure 2 --</p> <p>15 MS. O'DELL: Excuse me. Dr. Smith, if</p> <p>16 you'll let him ask the question.</p> <p>17 This is very -- gonna be very</p> <p>18 confusing on the record, so if we could just start</p> <p>19 over and make it clear.</p> <p>20 MR. JAMES: Sure. Sure.</p> <p>21 MS. O'DELL: Thank you.</p> <p>22 Q. (BY MR. JAMES) So we're looking at the</p> <p>23 Penninkilampi study, Figure 2, page 46, correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. (BY MR. JAMES) Uh-huh.</p> <p>2 A. Cramer's got a paper. I think it's Cramer</p> <p>3 has a paper that tubal ligation increases ovarian</p> <p>4 cancer risks in one of his forms. I mean, it's --</p> <p>5 you know, you have the outliers. But the body of</p> <p>6 literature doesn't support this single decrease from</p> <p>7 1.31 to 1.25. But, you know, okay, but I see it. I</p> <p>8 know it.</p> <p>9 Q. And in your report you discuss</p> <p>10 Penninkilampi as politically -- excuse me,</p> <p>11 particularly important to your analysis, correct?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. I really like this study. I -- I like the</p> <p>14 scope of it. I like inclusion of the cohorts. It</p> <p>15 has a huge number of cases. Bigger is better. When</p> <p>16 you get away from small numbers and into the really</p> <p>17 large numbers, you have a much higher chance of</p> <p>18 finding truth if you -- so I like this study.</p> <p>19 Q. (BY MR. JAMES) Do you see on page 42 of</p> <p>20 the study, it's the left-hand column, top paragraph,</p> <p>21 bottom sentence, the authors state, "Hence, while</p> <p>22 perineal talc use has not been shown to be safe, in</p> <p>23 a similar regard, a certain causal link between talc</p> <p>24 use and ovarian cancer has not yet been</p>
<p style="text-align: right;">Page 211</p> <p>1 Q. Okay. And do we see here, which is where</p> <p>2 I was trying to go, that the "Any perineal talc use"</p> <p>3 odds ratio reported here is a 1.31, correct?</p> <p>4 A. Correct.</p> <p>5 Q. And then they go on in Figure 2 to state</p> <p>6 that the "Long-Term perineal talc use" odds ratio is</p> <p>7 a 1.25, correct?</p> <p>8 A. Correct.</p> <p>9 Q. And the authors also note that it's a</p> <p>10 lower magnitude odds ratio, correct?</p> <p>11 A. Correct.</p> <p>12 Q. Does that lower magnitude odds ratio for</p> <p>13 long-term perineal talc use comport with your</p> <p>14 litigation opinions?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. It's not inconsistent.</p> <p>17 Q. (BY MR. JAMES) It's not inconsistent with</p> <p>18 your opinions that a long-term talc user has a lower</p> <p>19 odds ratio?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. It is not unusual to have a -- a single</p> <p>22 inconsistent finding within one study. It doesn't</p> <p>23 change the whole picture of -- I mean, I note it. I</p> <p>24 acknowledge it.</p>	<p style="text-align: right;">Page 213</p> <p>1 established," close quote?</p> <p>2 A. They do say that.</p> <p>3 Q. Okay. Do you agree with that finding or</p> <p>4 statement?</p> <p>5 A. My conclusions are based on the totality</p> <p>6 of all the evidence that I have reviewed, not just</p> <p>7 the epidemiologic. Certainly, they have not reached</p> <p>8 that conclusion.</p> <p>9 MR. KLATT: Objection; nonresponsive.</p> <p>10 Q. (BY MR. JAMES) And the Penninkilampi</p> <p>11 authors did not reach a causation conclusion,</p> <p>12 correct?</p> <p>13 MS. O'DELL: Object to form.</p> <p>14 A. Well, in their introduction, they said a</p> <p>15 causal link has not been used.</p> <p>16 And their discussion is that they said</p> <p>17 that a (paraphrasing) talc use appears to be</p> <p>18 associated with an increased risk of serous ovarian</p> <p>19 cancer, both invasive and borderline, and not with</p> <p>20 mucinous and with endometrial -- endometrioid</p> <p>21 ovarian cancer with perineal use.</p> <p>22 Q. (BY MR. JAMES) The question remains,</p> <p>23 Dr. Smith: The Penninkilampi study that you cite as</p> <p>24 particularly important in your report, the authors</p>

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<p style="text-align: right;">Page 214</p> <p>1 there do not render the conclusion that talc is a</p> <p>2 demonstrated cause of ovarian cancer, do they?</p> <p>3 MS. O'DELL: Objection to form; asked</p> <p>4 and answered.</p> <p>5 A. They ask for a sustained need for further</p> <p>6 research on the potential mechanism by which ovarian</p> <p>7 cancer may be caused by talc.</p> <p>8 So they -- they do not allow a causal</p> <p>9 relationship, nor do they allow rejecting that</p> <p>10 causal relationship.</p> <p>11 Q. (BY MR. JAMES) And here, we do know that</p> <p>12 you have rendered the causation opinion, and so your</p> <p>13 causation opinion is different than the opinion</p> <p>14 reached by the authors of the Penninkilampi study,</p> <p>15 isn't it?</p> <p>16 A. Yes.</p> <p>17 Q. When evaluating the Penninkilampi study,</p> <p>18 did you note that the Penninkilampi authors omitted</p> <p>19 certain cohort data?</p> <p>20 A. They use Gertig rather than Gates.</p> <p>21 Q. Okay. And the Gates paper is the</p> <p>22 follow-up paper, correct?</p> <p>23 A. The Gates paper is the -- do you want to</p> <p>24 do the -- the prospective studies now or do you want</p>	<p style="text-align: right;">Page 216</p> <p>1 questions.</p> <p>2 MR. JAMES: Okay. So I'm marking the</p> <p>3 Gates 2010 paper as Exhibit 22.</p> <p>4 (Deposition Exhibit 22 marked for</p> <p>5 identification.)</p> <p>6 Q. (BY MR. JAMES) And so the question --</p> <p>7 I'll rephrase.</p> <p>8 MS. O'DELL: Oh. I thought you were</p> <p>9 gonna hand me something else. Okay.</p> <p>10 Q. (BY MR. JAMES) The Gates paper is the --</p> <p>11 is a paper produced on the Nurses' Health cohort,</p> <p>12 correct, Dr. Smith?</p> <p>13 A. Did you say the Gates' paper?</p> <p>14 Q. Yes.</p> <p>15 A. Yes.</p> <p>16 MS. O'DELL: Are you gonna mark</p> <p>17 Gertig, if you're gonna compare the two?</p> <p>18 MR. JAMES: I'll mark Gertig as</p> <p>19 Exhibit 23.</p> <p>20 (Deposition Exhibit 23 marked for</p> <p>21 identification.)</p> <p>22 Q. (BY MR. JAMES) And Dr. Smith, Gertig is</p> <p>23 also a Nurses' Health paper, correct?</p> <p>24 A. It's the first one.</p>
<p style="text-align: right;">Page 215</p> <p>1 to do it as part of this?</p> <p>2 Q. I -- right now, I'd just like to continue</p> <p>3 with the questioning.</p> <p>4 A. Okay. Okay.</p> <p>5 Q. And if there is a --</p> <p>6 A. Okay.</p> <p>7 Q. -- point where you'd like the papers,</p> <p>8 we'll get them for you.</p> <p>9 A. Thank you.</p> <p>10 Q. Okay.</p> <p>11 A. I always love the papers.</p> <p>12 The Gates study is the first half of</p> <p>13 the Nurses' study.</p> <p>14 MS. O'DELL: Scott, if you're gonna</p> <p>15 mark the papers, why don't we go ahead and mark</p> <p>16 Gates and --</p> <p>17 THE WITNESS: Gertig?</p> <p>18 MS. O'DELL: -- if you're going to --</p> <p>19 Yes.</p> <p>20 If you're going to -- I think we've</p> <p>21 marked them --</p> <p>22 MR. JAMES: Sure. That sounds fine.</p> <p>23 MS. O'DELL: That way the Doctor can</p> <p>24 have it in front of her while she's answering the</p>	<p style="text-align: right;">Page 217</p> <p>1 Q. Thank you.</p> <p>2 A. Thank you.</p> <p>3 Q. All right. And so to reframe the</p> <p>4 question, Dr. Smith, the Penninkilampi study omits</p> <p>5 the data from the Gates 2010 study, correct?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 Excuse me. I'm sorry.</p> <p>8 A. It used Gertig and not Gates.</p> <p>9 Q. (BY MR. JAMES) Okay. Is there --</p> <p>10 A. I -- I don't think he -- I don't know why</p> <p>11 he -- that is what it is.</p> <p>12 Q. And, again, you understand the Gates 2010</p> <p>13 paper has data on additional years of follow-up,</p> <p>14 correct?</p> <p>15 A. And additional patients.</p> <p>16 MS. O'DELL: Objection to form.</p> <p>17 Q. (BY MR. JAMES) And you understand that</p> <p>18 the Gates 2010 paper includes an analysis of the</p> <p>19 odds ratios associated with talc and ovarian cancer,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. Do you believe the Penninkilampi study</p> <p>23 should have included the data from the Gates 2010</p> <p>24 paper?</p>

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<p>1 A. I --</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 A. I believe it doesn't matter.</p> <p>4 Q. (BY MR. JAMES) Why doesn't it matter?</p> <p>5 A. Because we have the Berge study that did</p> <p>6 include it, and that -- for some reason, it's not</p> <p>7 included in my report, and if you don't call it a</p> <p>8 flaw, I will. I -- I think in multiple drafts and</p> <p>9 cut and pasting it went to the great cyber void.</p> <p>10 Q. Okay. And that's -- the discussion that</p> <p>11 you just had was concerning the Berge paper,</p> <p>12 correct?</p> <p>13 A. Right.</p> <p>14 Q. But returning back to the Penninkilampi</p> <p>15 study, do you believe it was a flaw for the authors</p> <p>16 not to include data from Gates 2010?</p> <p>17 MS. O'DELL: Objection to form.</p> <p>18 A. No, I don't.</p> <p>19 Q. (BY MR. JAMES) Why is that?</p> <p>20 A. Because it doesn't make any difference.</p> <p>21 Because Berge did, and it didn't make any difference</p> <p>22 in the results.</p> <p>23 Q. Okay. So I'm asking about the</p> <p>24 Penninkilampi study. And my question is whether</p>	<p>1 Q. -- "While the results of case-control</p> <p>2 studies are prone to recall bias, especially with</p> <p>3 intense media attention following the commencement</p> <p>4 of litigation in 2014, the confirmation of an</p> <p>5 association in cohort studies between perineal talc</p> <p>6 use and serous invasive ovarian cancer is suggestive</p> <p>7 of a causal association," closed quote.</p> <p>8 Do you see that?</p> <p>9 A. Yes.</p> <p>10 Q. And so Penninkilampi is hinging its</p> <p>11 conclusions on what it believes to be the results</p> <p>12 of, quote, "cohort studies," closed quote, correct?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. I don't believe that they hinge their</p> <p>15 whole findings on cohort studies. Their statistical</p> <p>16 and significant include- -- significance included</p> <p>17 those cohort studies, but it's only a component of</p> <p>18 theirs.</p> <p>19 Q. (BY MR. JAMES) And certainly in the</p> <p>20 Conclusions section, the Penninkilampi authors</p> <p>21 acknowledge the bias limitations associated with</p> <p>22 case control studies, correct?</p> <p>23 A. They say case control studies are prone to</p> <p>24 recall bias. I think a better choice of words would</p>
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<p>1 Penninkilampi should have included the data from the</p> <p>2 Gates 2010.</p> <p>3 MS. O'DELL: Object to the form.</p> <p>4 A. Well, if you use the most recent available</p> <p>5 data, maybe he should have, yes, you're right.</p> <p>6 Q. (BY MR. JAMES) And, in fact, that's one</p> <p>7 of the points that you make in your report, correct?</p> <p>8 You -- one of the things you note in</p> <p>9 your report is follow-up is a good thing, right?</p> <p>10 A. Correct.</p> <p>11 Q. And the Penninkilampi authors make certain</p> <p>12 conclusions about the cohort data, don't they?</p> <p>13 A. You're gonna have to tell me what those</p> <p>14 conclusions are before I'll agree with or not agree</p> <p>15 with that.</p> <p>16 Q. Okay. Dr. Smith, if you -- do you have</p> <p>17 the Penninkilampi paper in front of you?</p> <p>18 A. I do.</p> <p>19 Q. Okay. And you see on page 47 in the</p> <p>20 Conclusions section --</p> <p>21 A. Um-hum.</p> <p>22 Q. -- you see that, quote -- and this is the</p> <p>23 second sentence down --</p> <p>24 A. Um-hum.</p>	<p>1 be may be prone to recall bias.</p> <p>2 But, yes, cohort studies obviate</p> <p>3 recall bias. They don't have it.</p> <p>4 Q. And we know again here that Penninkilampi</p> <p>5 did not include the Nurses' Health cohort data from</p> <p>6 2010 Gates, correct?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. Correct.</p> <p>9 Q. (BY MR. JAMES) Okay. And are -- do you</p> <p>10 know that in the Gates 2010 paper the reported</p> <p>11 association with the serous ovarian cancer washed</p> <p>12 out?</p> <p>13 A. I know that.</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 Q. (BY MR. JAMES) And Penninkilampi</p> <p>16 apparently doesn't know that, correct?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. I haven't talked to him.</p> <p>19 Q. (BY MR. JAMES) Okay. Well, Penninkilampi</p> <p>20 is referring to a confirmation of an association and</p> <p>21 cohort studies.</p> <p>22 Do you see that?</p> <p>23 A. Right.</p> <p>24 Q. So he must be referring to --</p>

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<p>1 A. The Gertig study.</p> <p>2 Q. -- Gertig study, correct?</p> <p>3 MS. O'DELL: Excuse me.</p> <p>4 A. Right.</p> <p>5 MS. O'DELL: Object to the form.</p> <p>6 Hey, Doctor, give me just a minute</p> <p>7 to --</p> <p>8 THE WITNESS: Okay. I'm sorry.</p> <p>9 MS. O'DELL: -- get my objection in.</p> <p>10 Q. (BY MR. JAMES) And we know that's true</p> <p>11 because we know none of the cohorts performed today</p> <p>12 have found an association, correct?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. That is true.</p> <p>15 Q. (BY MR. JAMES) We know the Women's Health</p> <p>16 Initiative study did not find an association between</p> <p>17 perineal talc use and ovarian cancer, correct?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. That is true.</p> <p>20 Q. (BY MR. JAMES) We know the Gonzalez</p> <p>21 Sister Study -- the prospective Gonzalez Sister</p> <p>22 Study did not find an association between perineal</p> <p>23 talc use and ovarian cancer, correct?</p> <p>24 A. That is true.</p>	<p>1 Q. (BY MR. JAMES) If you had looked at</p> <p>2 the Gates --</p> <p>3 MS. O'DELL: Hey, let -- finish -- if</p> <p>4 you've got an answer --</p> <p>5 Did you finish your answer?</p> <p>6 THE WITNESS: I did finish my answer.</p> <p>7 MS. O'DELL: Okay. Give me a moment.</p> <p>8 Thank you.</p> <p>9 THE WITNESS: I know. I'm not</p> <p>10 supposed to talk so fast.</p> <p>11 Q. (BY MR. JAMES) If you had looked at the</p> <p>12 Gates 2010 data, he wouldn't have been able to make</p> <p>13 that statement, correct?</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 A. Do you mean the statement that the</p> <p>16 confirmation of an association in cohort studies</p> <p>17 between perineal talc use and serous invasive cancer</p> <p>18 is suggested of a causal association?</p> <p>19 Well, his -- the Gates study did not</p> <p>20 have statistically significant increase incidence of</p> <p>21 serous ovarian cancer.</p> <p>22 Q. (BY MR. JAMES) Another reason that you'd</p> <p>23 want to look at the most recent data available from</p> <p>24 a cohort is because of concerns about latency, which</p>
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<p>1 Q. So we can deduce here that the only study</p> <p>2 that he can be referring to is the Gertig 2000</p> <p>3 study, correct?</p> <p>4 A. He lists Gertig in his reference -- in</p> <p>5 his -- see. He lists Gertig --</p> <p>6 Q. So there's no dispute --</p> <p>7 A. -- right there.</p> <p>8 Q. I'm sorry, Doctor.</p> <p>9 A. In Gertig, there's no dispute. He's</p> <p>10 not trying to hide anything. It's listed,</p> <p>11 "Gertig 2000."</p> <p>12 Q. Right. So there's no dispute in our</p> <p>13 discussion here either that what he's referring to</p> <p>14 there is the Gertig 2000 study, correct?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. He is referring to the Gertig.</p> <p>17 Q. (BY MR. JAMES) And he just forgot to look</p> <p>18 at the Gates 2010 data, correct?</p> <p>19 A. I don't know why --</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. -- he didn't look at the Gates study.</p> <p>22 MS. O'DELL: Excuse me, Doctor.</p> <p>23 Object to the form.</p> <p>24 You may answer.</p>	<p>1 you also cite in your report, correct?</p> <p>2 MS. O'DELL: Objection to form.</p> <p>3 A. That's not the only reason to just look at</p> <p>4 most up-to-date studies.</p> <p>5 Q. (BY MR. JAMES) Is it one of the reasons?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. I have never con- -- thought about latency</p> <p>8 in terms of looking at the most recent study and the</p> <p>9 most up-to-date studies.</p> <p>10 Q. (BY MR. JAMES) Okay. In your report, do</p> <p>11 you recall critiquing the cohort studies on the</p> <p>12 basis that, in your opinion, they have short</p> <p>13 follow-up and don't account for latency?</p> <p>14 Do you recall that critique?</p> <p>15 A. Particularly -- particularly the Gonzalez</p> <p>16 study, yes.</p> <p>17 Q. Okay. But the -- the question that I'm</p> <p>18 posing here is more general in nature.</p> <p>19 Is that one of the reasons that you</p> <p>20 would want to include the most recent data from a</p> <p>21 cohort is to, in part, address the concern of</p> <p>22 latency that you --</p> <p>23 A. The longest follow-up possible.</p> <p>24 Q. Okay. We will turn to the Berge study,</p>

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<p>1 which you previewed for us, Dr. Smith, and I will 2 hand you a copy, if I haven't already. 3 MR. JAMES: I'm gonna mark Berge, 4 B-e-r-g-e, as Exhibit 24. 5 (Deposition Exhibit 24 marked for 6 identification.) 7 Q. (BY MR. JAMES) Dr. Smith, I've handed you 8 the Berge paper. 9 And this is a paper you have seen 10 before, correct? 11 A. It is. 12 Q. And as you just discussed, you acknowledge 13 it's not discussed in your report, correct? 14 MS. O'DELL: Objection to form. 15 Q. (BY MR. JAMES) Or I'll -- I'm going to 16 rephrase. I know -- I -- 17 A. I have cited it -- 18 Q. -- I can correct that. 19 You cited it for a publication bias 20 point, correct? 21 A. I don't -- I'd have to look where I cited 22 it. 23 Q. Okay. 24 A. I -- it's missing from here. Yeah.</p>	<p>1 A. I was looking for something, but go ahead 2 and talk. 3 MS. O'DELL: Excuse me. I think -- 4 let me get -- I think maybe -- do you have part of 5 the table missing from your version? 6 THE WITNESS: There's -- yeah, there's 7 a table that I'm used to around here. 8 MR. JAMES: Do you have a better copy, 9 Leigh? 10 THE WITNESS: Let me see. 11 MS. O'DELL: Is it an eTable? 12 THE WITNESS: No, I think it's just 13 the copy . . . 14 MR. JAMES: That's all I have. 15 THE WITNESS: Oh, yeah. No. I don't 16 know. Yeah, this is my copy. 17 MR. JAMES: Okay. Let me see. 18 And Mr. Klatt has handed me some 19 better copies as well, if anybody needs a better one 20 as well. 21 MS. O'DELL: Thank you. 22 MR. JAMES: And at the break, I will 23 resticker. 24 THE WITNESS: Yeah, it's Table 2 on --</p>
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<p>1 Q. Do you agree that you haven't discussed 2 the Berge study in-depth in your report? 3 A. Correct. 4 Q. And that was a -- what you were alluding 5 to earlier as a mistake and omission. Fair? 6 MS. O'DELL: Objection to form. 7 A. Correct. 8 Q. (BY MR. JAMES) What are your thoughts on 9 the Berge study? 10 A. Again, it -- it -- it uses Gates instead 11 of Gertig. It has very similar findings to 12 Penninkilampi. If you look at his forest plot, he 13 looks at the cohort studies: Gates, Houghton, 14 Gonzalez, nurses, women, sisters. Again, they are 15 not statistically significant on their relative risk 16 and confidence intervals. 17 And yet in inclusion with the entire 18 population, his numbers are very similar to 19 Penninkilampi with an overall relative risk slightly 20 lower of 1.22 versus Penninkilampi is 1.31; 21 confidence intervals 1.13 to 1.30 for Berg remains 22 statistically significant as Penninkilampi 1.24 to 23 1.39. 24 Q. Do you -- Doctor, are you finished?</p>	<p>1 here it is. 2 A. Table 2 on page 6 where Penninkilampi -- I 3 am becoming buried -- found invasive serous. 4 So first, I'm gonna give you 5 Penninkilampi's statistically significant increase 6 rate invasive serous cancer with genital talc use. 7 Penninkilampi's numbers are overall risk 1.25, 8 confidence interval 1.01 to 1.55. 9 Berg -- Berge is 1.24, confident 10 intervals 1.15 to 1.34. 11 So this is why I told you from 12 comparing these two papers that Gertig versus Gates, 13 when you look at all the same body, it's six of one 14 half-a-dozen of the other, the inclusion of which of 15 those two post -- his studies in meta-analyses. 16 Q. (BY MR. JAMES) But you have already 17 agreed with me that it would have been better for 18 Penninkilampi to included the Gates 2010 data, 19 correct? 20 MS. O'DELL: Objection to form. 21 A. I like using the most recent study. 22 Q. (BY MR. JAMES) And that's EPI 101, isn't 23 it? 24 MS. O'DELL: Objection; form.</p>

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<p>1 A. That's everything 101.</p> <p>2 Q. (BY MR. JAMES) And we see here in the</p> <p>3 Berge paper if we look at the conclusions in the</p> <p>4 abstract, the very last sentence of the paper, the</p> <p>5 authors conclude, quote -- and I'm at the very first</p> <p>6 page of the paper in the abstract -- they conclude,</p> <p>7 quote, "The heterogeneity of results by study</p> <p>8 design . . . however, detracts from a causal</p> <p>9 interpretation of the association."</p> <p>10 A. I think I'm in the wrong place.</p> <p>11 MS. O'DELL: What page are you on?</p> <p>12 MR. JAMES: The abstract.</p> <p>13 A. The heterogeneity.</p> <p>14 Q. (BY MR. JAMES) Dr. Smith, I think your</p> <p>15 scarf is covering your mike.</p> <p>16 A. I'm sorry. Nope. I broke it.</p> <p>17 THE VIDEOGRAPHER: Okay. We need to</p> <p>18 go off the record.</p> <p>19 MR. JAMES: Okay. Off the record.</p> <p>20 THE VIDEOGRAPHER: Okay. Off the</p> <p>21 record. The time is 3:41 p.m.</p> <p>22 (A recess was taken from 3:41 p.m.</p> <p>23 to 4:13 p.m.)</p> <p>24 THE VIDEOGRAPHER: Back on the record.</p>	<p>1 it does differ from this individual one paper.</p> <p>2 Q. (BY MR. JAMES) And, again, the individual</p> <p>3 one paper you're here is a meta-analysis that -- it</p> <p>4 is a meta-analysis, correct?</p> <p>5 A. Yes. I have -- I have great respect for</p> <p>6 this paper.</p> <p>7 Q. And we see the -- in the conclusion that</p> <p>8 we just read, one of the points the authors here</p> <p>9 make concerns the heterogeneity results by study</p> <p>10 design, correct?</p> <p>11 A. Correct.</p> <p>12 Q. And there the authors are noting that the</p> <p>13 association that appears in a subset of the case</p> <p>14 control studies is not being replicated in the</p> <p>15 cohorts prospective studies, correct?</p> <p>16 MS. O'DELL: Object to the form.</p> <p>17 A. Case control studies are entirely</p> <p>18 different from cohort studies.</p> <p>19 Q. (BY MR. JAMES) All right. Let me ask my</p> <p>20 question again.</p> <p>21 A. Okay.</p> <p>22 Q. Here when the authors are referring to the</p> <p>23 difference in the results of the types of studies,</p> <p>24 right, in this conclusion, that's what they're</p>
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<p>1 The time is 4:13 p.m.</p> <p>2 Q. (BY MR. JAMES) And, Dr. Smith, when we</p> <p>3 broke, we were discussing the Berge study, correct?</p> <p>4 A. Yes.</p> <p>5 Q. And so I'm gonna -- I think that when we</p> <p>6 broke I was pointing you toward the abstract portion</p> <p>7 of the patient -- paper.</p> <p>8 A. Correct.</p> <p>9 Q. Okay. And do you see there at the bottom</p> <p>10 of the abstract the authors there conclude, quote,</p> <p>11 "The heterogeneity of results by study design and</p> <p>12 the lack of a trend for duration and frequency of</p> <p>13 use, however, detract from a causal interpretation</p> <p>14 of this association," close quotes?</p> <p>15 A. That --</p> <p>16 MS. O'DELL: Object to form.</p> <p>17 A. That was their assessment.</p> <p>18 Q. (BY MR. JAMES) Okay. And your litigation</p> <p>19 opinion differs from the causal conclusions reached</p> <p>20 by these authors, correct?</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. My causal interpretation is built on the</p> <p>23 totality of all of these studies and the</p> <p>24 biochemistry and all the literature I reviewed. So</p>	<p>1 referring to, aren't they, when they say</p> <p>2 "heterogeneity"?</p> <p>3 A. I can't -- I can't define their</p> <p>4 heterogeneity.</p> <p>5 Q. Let me try again. So here the authors</p> <p>6 refer to the -- quote, "The heterogeneity of results</p> <p>7 by study design," close quote.</p> <p>8 Does that phrase -- do you understand</p> <p>9 what they mean by that phrase?</p> <p>10 A. Do they define it further in the text? I</p> <p>11 don't remember that.</p> <p>12 Q. Let's look to page 253 of the article.</p> <p>13 A. Mine has single-digit page numbers.</p> <p>14 Q. Hum.</p> <p>15 A. Starts on page 1 and goes to page 9 --</p> <p>16 oop. Because mine's an e-Pub. This is an e-Pub.</p> <p>17 MS. O'DELL: This is the copy I think</p> <p>18 you gave.</p> <p>19 MR. JAMES: Can I see that real quick?</p> <p>20 MS. O'DELL: Yeah.</p> <p>21 MR. JAMES: Is that an e-Pub as well,</p> <p>22 Leigh, on the front?</p> <p>23 BY MS. O'DELL: It --</p> <p>24 THE WITNESS: It says, "Cancer --</p>

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<p style="text-align: right;">Page 234</p> <p>1 General Cancer Position 00000."</p> <p>2 MS. O'DELL: Is that the same one</p> <p>3 you're looking at? It's just different page</p> <p>4 numbers.</p> <p>5 MR. JAMES: Um-hum.</p> <p>6 MS. O'DELL: That may be the copy</p> <p>7 that -- I think that's the copy that -- that Mike</p> <p>8 gave us.</p> <p>9 MR. JAMES: Um-hum.</p> <p>10 THE WITNESS: Because on my copy, I</p> <p>11 had to write down the final publication information</p> <p>12 beside it.</p> <p>13 MR. JAMES: Okay. I think on the next</p> <p>14 break I'm gonna take a peek closer at these Berge</p> <p>15 articles. I think we may still have a disconnect.</p> <p>16 MS. O'DELL: Okay.</p> <p>17 MR. JAMES: I'm not sure why we're</p> <p>18 looking at two different versions on the same paper.</p> <p>19 Here you go.</p> <p>20 THE WITNESS: I have written here that</p> <p>21 the final publication pages were 248 through 257 of</p> <p>22 Volume 27.</p> <p>23 Does that help you?</p> <p>24 MR. JAMES: Sort of. So let's --</p>	<p style="text-align: right;">Page 236</p> <p>1 number of studies they include.</p> <p>2 Q. (BY MR. JAMES) So as time goes on and</p> <p>3 more studies are performed testing the hypothesis of</p> <p>4 ovarian cancer in talc, that body of literature can</p> <p>5 be included in the next meta-analysis that's</p> <p>6 completed, correct?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. Correct.</p> <p>9 Q. (BY MR. JAMES) You agree that the</p> <p>10 meta-analyses of all of the underlying studies</p> <p>11 cannot eliminate the recall bias in the underlying</p> <p>12 studies?</p> <p>13 MS. O'DELL: Object to the form.</p> <p>14 A. In any case control study, there exists</p> <p>15 the possibility of any recall bias.</p> <p>16 Q. (BY MR. JAMES) And putting these studies</p> <p>17 together in a meta doesn't eliminate that, correct?</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. No, it does not.</p> <p>20 Q. (BY MR. JAMES) And you may recall this,</p> <p>21 but the Penninkilampi study concedes that point,</p> <p>22 correct?</p> <p>23 MS. O'DELL: Object -- object to the</p> <p>24 form.</p>
<p style="text-align: right;">Page 235</p> <p>1 let's just keep moving. Okay?</p> <p>2 THE WITNESS: Okay.</p> <p>3 MR. JAMES: Let's keep plowing.</p> <p>4 Q. (BY MR. JAMES) The Berge authors made a</p> <p>5 conclusion that the evidence was insufficient to</p> <p>6 support causation, correct?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. They say it detracts from causal</p> <p>9 interpretation of this association.</p> <p>10 Q. (BY MR. JAMES) And one of the items they</p> <p>11 consider is the fact that the cohort data does not</p> <p>12 report a statistically significant association</p> <p>13 between ovarian cancer and talc use, correct?</p> <p>14 A. Because they use Gates.</p> <p>15 Q. Understood.</p> <p>16 Would you agree that all of the</p> <p>17 meta-analyses that we have looked at today and that</p> <p>18 you addressed in your report are relying on a -- on</p> <p>19 a similar set of data?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. I will certainly tell you the past three</p> <p>22 studies -- two to three studies we've looked at work</p> <p>23 on a similar data. This is a growing body of</p> <p>24 epidemiologic evidence, so each study grows in the</p>	<p style="text-align: right;">Page 237</p> <p>1 A. (No response.)</p> <p>2 Q. (BY MR. JAMES) And Dr. Smith, referring</p> <p>3 to page 47, the Conclusions section of the paper.</p> <p>4 A. Yes.</p> <p>5 Q. And we see here that the -- if you look</p> <p>6 down to --</p> <p>7 A. Yes.</p> <p>8 Q. -- the last sentence in that column, they</p> <p>9 say, "Additional epi evidence from prospective</p> <p>10 studies with attention to effects of ovarian cancer</p> <p>11 subtype is warranted."</p> <p>12 Do you see that?</p> <p>13 A. I see that.</p> <p>14 Q. And so the authors here in the</p> <p>15 Penninkilampi study are expressing a need for</p> <p>16 additional prospective data, correct?</p> <p>17 MS. O'DELL: Objection.</p> <p>18 A. Correct.</p> <p>19 Q. (BY MR. JAMES) We've talked already, in</p> <p>20 some fashion, about the cohort studies.</p> <p>21 You agree with me that the litigation</p> <p>22 opinions you're offering in your report conflict</p> <p>23 with the cohort studies, correct?</p> <p>24 MS. O'DELL: Object to the form.</p>

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<p>1 A. The cohort studies, with the exception of</p> <p>2 Gertig and serous, showed no statistically</p> <p>3 significant increase hazard ratio or relative risk</p> <p>4 or standardized mortality ratio, depending on the</p> <p>5 statistics they chose, hazard ratios for ovarian</p> <p>6 cancer. That is a fact.</p> <p>7 Q. (BY MR. JAMES) You discuss the Houghton</p> <p>8 study, the Women's Health Initiative study on</p> <p>9 page 15 of your report.</p> <p>10 A. Yes.</p> <p>11 Q. And you include the note that -- on</p> <p>12 page 15, that "No histologic information was</p> <p>13 obtained."</p> <p>14 Do you see that phrase in your report?</p> <p>15 A. I do.</p> <p>16 Q. Do you believe that to be correct?</p> <p>17 A. May I see the paper.</p> <p>18 Q. Yes, Doctor.</p> <p>19 MR. JAMES: I'm gonna mark the Women's</p> <p>20 Health Initiative Houghton study as Exhibit</p> <p>21 Number 25.</p> <p>22 (Deposition Exhibit 25 marked for</p> <p>23 identification.)</p> <p>24 THE WITNESS: Thank you.</p>	<p>1 A. They did not find any variation of risk by</p> <p>2 subtype.</p> <p>3 Q. Okay. So would you agree with me, then,</p> <p>4 that that statement in your report is erroneous?</p> <p>5 A. I believe --</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. I believe I -- it would have been better</p> <p>8 stated "No difference in risks by histologic</p> <p>9 information was demonstrated."</p> <p>10 Q. (BY MR. JAMES) Okay.</p> <p>11 A. What it stated here is wrong.</p> <p>12 Q. Are your opinions that you're offering</p> <p>13 today on general causation between talc and ovarian</p> <p>14 cancer histologic specific?</p> <p>15 A. With regards to mucinous ovarian cancer, I</p> <p>16 have seen no -- strike that.</p> <p>17 I learned how to say that.</p> <p>18 Q. That's fine.</p> <p>19 A. With a totality of the information I've</p> <p>20 looked at, I do not believe talcum powder is a risk</p> <p>21 factor for the development of mucinous ovarian</p> <p>22 cancer.</p> <p>23 Q. Do you believe it is a risk factor for the</p> <p>24 other subtypes of epithelial ovarian cancer?</p>
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<p>1 Q. (BY MR. JAMES) If we look at the study on</p> <p>2 page 3, Dr. Smith.</p> <p>3 A. (Examined exhibit.) Yes. Table 1?</p> <p>4 Q. You're ahead of -- you're ahead of me.</p> <p>5 MS. O'DELL: Please wait for the</p> <p>6 question, Dr. Smith.</p> <p>7 THE WITNESS: He said, "If we look at</p> <p>8 the study on page 3." That was a question.</p> <p>9 Q. (BY MR. JAMES) Yes. Yes. Yes, page 3.</p> <p>10 Page 3. I'm getting there.</p> <p>11 (Examined exhibit.) And the study</p> <p>12 states that "Associations by ovarian cancer</p> <p>13 histological subtype were evaluated."</p> <p>14 A. I'm sorry. Where are you on page 3?</p> <p>15 Q. Give me one second. I lost it. I'm on</p> <p>16 the wrong page here. Give me one second.</p> <p>17 Dr. Smith, if we turn to page 5</p> <p>18 of 6 --</p> <p>19 A. Um-hum.</p> <p>20 Q. -- we see here that there is information</p> <p>21 in the Table 4 pertaining to Histology, correct?</p> <p>22 A. I see that.</p> <p>23 Q. Okay. And do you know if this study found</p> <p>24 any variation in risk by subtype?</p>	<p>1 A. I am certain that it's a risk factor for</p> <p>2 the risk factor of serous invasive ovarian and</p> <p>3 endometrioid invasive --</p> <p>4 Did I say endometrial?</p> <p>5 Q. You did.</p> <p>6 A. Oh, I meant -- okay. Let me start again.</p> <p>7 I believe it is. It -- talcum powder</p> <p>8 products cause invasive serous ovarian cancer and</p> <p>9 invasive endometrioid ovarian cancer.</p> <p>10 I am less clear on its relation to</p> <p>11 clear cell carcinoma, and I believe it is not a</p> <p>12 causative agent in the development of mucinous</p> <p>13 ovarian cancer.</p> <p>14 Q. And when you say you're less clear with</p> <p>15 respect to clear cell, sitting here today, do you</p> <p>16 offer the opinion that talc is causative of clear</p> <p>17 cell ovarian cancer?</p> <p>18 A. It is -- yes, I will say that. Because of</p> <p>19 the inflammation, yes, I can say that.</p> <p>20 Q. So you're -- you say that you're less</p> <p>21 clear about it, but you still feel --</p> <p>22 A. I think there's less dat- --</p> <p>23 MS. O'DELL: Let him finish his</p> <p>24 question.</p>

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<p style="text-align: right;">Page 242</p> <p>1 Q. (BY MR. JAMES) So you --</p> <p>2 THE WITNESS: Let him finish his</p> <p>3 question.</p> <p>4 Q. (BY MR. JAMES) So you say that you're</p> <p>5 less clear about clear cell, but you were still</p> <p>6 comfortable stating that the evidence is sufficient</p> <p>7 to conclude that talc causes clear cell carcinoma?</p> <p>8 MS. O'DELL: Objection; form.</p> <p>9 A. I can say it better. Clear cell carcinoma</p> <p>10 is a less frequent histologic type, but inflammation</p> <p>11 still contributes heavily to its development. I</p> <p>12 think we have fewer cases; therefore, fewer data,</p> <p>13 but I think talc contributes to its development.</p> <p>14 Q. (BY MR. JAMES) And when you say</p> <p>15 "contributes to its development" --</p> <p>16 A. Causes.</p> <p>17 Q. -- I think you --</p> <p>18 A. In a legal term.</p> <p>19 Q. -- are you asking -- are you saying that</p> <p>20 it causes?</p> <p>21 A. Causes.</p> <p>22 Q. So your opinion here today is that talc is</p> <p>23 causative of serous?</p> <p>24 A. Serous.</p>	<p style="text-align: right;">Page 244</p> <p>1 MS. O'DELL: Object to the form; lack</p> <p>2 of foundation.</p> <p>3 A. I'd love to discuss it with them.</p> <p>4 Q. (BY MR. JAMES) Do you have any quarrels</p> <p>5 with the analysis on the Houghton paper?</p> <p>6 A. Could you be more specific?</p> <p>7 Q. Do you have any critiques, just sitting</p> <p>8 here today, of the Houghton paper?</p> <p>9 MS. O'DELL: Object to the form;</p> <p>10 vague.</p> <p>11 A. Well, in evaluating it, I looked at</p> <p>12 that it was small and -- well, it's 61,000</p> <p>13 postmenopausal women. It had a relatively short</p> <p>14 follow-up of only 12.4 years. The number of cases</p> <p>15 is low, about 429, so -- I mean, it's a small, short</p> <p>16 study.</p> <p>17 Q. (BY MR. JAMES) (Short pause.)</p> <p>18 And do you understand that the Women's</p> <p>19 Health Initiative included a question on duration?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did you factor that into</p> <p>22 considering your comment on follow-up?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 A. The follow-up's still 12.4 years. It</p>
<p style="text-align: right;">Page 243</p> <p>1 Q. Serous endometrioid --</p> <p>2 A. Yes.</p> <p>3 Q. -- and clear cell; is that correct?</p> <p>4 A. Yes.</p> <p>5 Q. Do you consider those three subtypes of</p> <p>6 ovarian cancer to be separate diseases?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. If they're -- if they're poorly</p> <p>9 differentiated, they are in the same type 2 ovarian</p> <p>10 cancer that we talk about aggressive, metastasized</p> <p>11 widely, fatal, yes.</p> <p>12 Q. (BY MR. JAMES) Do you believe that the</p> <p>13 risk factor profiles for serous, endometrioid, and</p> <p>14 clear cell are different or the same?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. They're certainly overlapping.</p> <p>17 Endometriosis is generally associated more with</p> <p>18 endometrioid and clear cell carcinomas, less so with</p> <p>19 serous carcinomas.</p> <p>20 Q. (BY MR. JAMES) If other experts have</p> <p>21 reached the conclusion that the association between</p> <p>22 talc and ovarian cancer is causative -- proven</p> <p>23 causative by the science only with serous and talc,</p> <p>24 then you would disagree with those experts?</p>	<p style="text-align: right;">Page 245</p> <p>1 doesn't change it.</p> <p>2 Q. (BY MR. JAMES) Does the fact that they</p> <p>3 asked about duration factor into your analysis at</p> <p>4 all?</p> <p>5 A. It's better to ask about duration, but --</p> <p>6 Q. And -- I'm sorry.</p> <p>7 A. -- but it doesn't change how long the</p> <p>8 study went on with the small numbers.</p> <p>9 Q. And so the study, if -- by asking about</p> <p>10 duration is increasing data on the -- on the time</p> <p>11 period for which it's evaluating talc users,</p> <p>12 correct?</p> <p>13 A. Correct.</p> <p>14 MS. O'DELL: So off the mark. I</p> <p>15 object to that question.</p> <p>16 Q. (BY MR. JAMES) On page 16 of your report,</p> <p>17 you state that, quote, "In my opinion, meta-analyses</p> <p>18 is the most valid and reliable way to study an issue</p> <p>19 like ovarian cancer," closed quote.</p> <p>20 Did you see where I read that?</p> <p>21 A. I see "In my opinion meta-analyses</p> <p>22 provides most reliable evidence in this situation."</p> <p>23 Is there another place? That's the</p> <p>24 third -- second full paragraph.</p>

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<p>1 I heard you say "valid," and I</p> <p>2 don't -- I'm not seeing that word.</p> <p>3 MS. O'DELL: I think you need to look</p> <p>4 a bit further down the page.</p> <p>5 THE WITNESS: Sorry.</p> <p>6 MR. JAMES: Yeah.</p> <p>7 Q. (BY MR. JAMES) It's the next paragraph.</p> <p>8 Do you see that? It's the</p> <p>9 lead sentence --</p> <p>10 A. Yeah, okay. I'm -- okay. I'm with you</p> <p>11 now.</p> <p>12 Q. Okay. Is that statement confined to talc</p> <p>13 or to ovarian cancer in general?</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 A. No. I mean, if we're looking at treatment</p> <p>16 studies, we have the opportunity to do prospective</p> <p>17 randomized controls trials, like the Armstrong trial</p> <p>18 that's cited in here. Those are always the best</p> <p>19 forms we have for treatment. We just can't do it</p> <p>20 for exposure.</p> <p>21 Q. (BY MR. JAMES) Here you say that you</p> <p>22 consider meta-analyses to be the most valid and</p> <p>23 reliable way to study an issue like ovarian cancer,</p> <p>24 correct?</p>	<p>1 MS. O'DELL: Excuse me. Let me object</p> <p>2 to form of that question and the question before.</p> <p>3 MR. JAMES: A retrospective objection.</p> <p>4 MS. O'DELL: Yes, that's right.</p> <p>5 A. Prospective what type studies, please?</p> <p>6 Q. (BY MR. JAMES) Okay.</p> <p>7 A. Cohort versus randomized? Double-blind?</p> <p>8 Q. So the meta-analyses, for example, that</p> <p>9 you have described as the most valid and reliable</p> <p>10 way to study the issue have commented in the studies</p> <p>11 themselves that prospective data is a higher level</p> <p>12 of evidence.</p> <p>13 Did you know that?</p> <p>14 A. Are you talking about cohort studies that</p> <p>15 are prospective?</p> <p>16 Q. Correct, prospective cohort studies.</p> <p>17 A. Okay.</p> <p>18 MS. O'DELL: Object to the form.</p> <p>19 A. Which can be analyzed by meta-analysis as</p> <p>20 well.</p> <p>21 Q. (BY MR. JAMES) But the meta-analyses</p> <p>22 themselves that you have cited have discussed --</p> <p>23 A. Contain retrospective studies.</p> <p>24 Q. Excuse me. Just one second.</p>
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<p>1 MS. O'DELL: Object to the form; asked</p> <p>2 and answered.</p> <p>3 A. I think meta-analysis is most valid and</p> <p>4 reliable way to study risk in ovarian cancer.</p> <p>5 Perhaps the word "issue" was not the best word</p> <p>6 choice.</p> <p>7 Q. (BY MR. JAMES) So you believe that</p> <p>8 meta-analysis is the best way to study risk factors</p> <p>9 for ovarian cancer?</p> <p>10 MS. O'DELL: Object to the form.</p> <p>11 A. Yes.</p> <p>12 Q. (BY MR. JAMES) Do you understand that the</p> <p>13 literature that we have discussed today, prospective</p> <p>14 cohort studies, meta-analyses, case control studies</p> <p>15 commonly make the comment about the advantages</p> <p>16 over -- excuse me -- the advantages of prospective</p> <p>17 studies over retrospective studies?</p> <p>18 A. Absolutely.</p> <p>19 Q. And those studies that make those comments</p> <p>20 are the studies that look at the issue of talc and</p> <p>21 ovarian cancer.</p> <p>22 MS. O'DELL: Excuse me. Make --</p> <p>23 Q. (BY MR. JAMES) Correct?</p> <p>24 A. Are you talking about --</p>	<p>1 The meta-analyses that you have cited</p> <p>2 and relied upon have discussed the fact that</p> <p>3 prospective cohort studies are higher level</p> <p>4 evidence.</p> <p>5 Did you know that?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. In general, I know that.</p> <p>8 Q. (BY MR. JAMES) The cohorts themselves in</p> <p>9 their methodology sections and discussion sections</p> <p>10 talk about the fact that they are being studied</p> <p>11 prospectively for the purpose of eliminating recall</p> <p>12 bias.</p> <p>13 Do you understand that?</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 A. That is one bias that can be eliminated in</p> <p>16 a prospective cohort study, but they're both Level 4</p> <p>17 evident epidemiologic studies which comes fourth</p> <p>18 down the scale on the validity of scientific papers.</p> <p>19 Q. (BY MR. JAMES) For example, the Houghton</p> <p>20 study that we've looked at today says that "The</p> <p>21 prospective nature of our study would eliminate the</p> <p>22 potential for recall bias."</p> <p>23 Would you agree with that statement?</p> <p>24 A. Yes.</p>

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<p style="text-align: right;">Page 250</p> <p>1 Q. The Gertig study that we've discussed</p> <p>2 today says that they have prospectively examined the</p> <p>3 relationship in a large cohort of U.S. women given</p> <p>4 the concerns for recall and selection bias.</p> <p>5 Do you understand that?</p> <p>6 MS. O'DELL: Objection to form.</p> <p>7 A. I understand that.</p> <p>8 Q. (BY MR. JAMES) So these studies are</p> <p>9 performed to address the flaws in the case control</p> <p>10 studies, correct?</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 A. They are a different type of study and</p> <p>13 they do account for recall bias, but they have their</p> <p>14 own weakness and limitations.</p> <p>15 Q. (BY MR. JAMES) And we've already talked</p> <p>16 about today that, even in the Penninkilampi study</p> <p>17 that you've discussed in your report, they conclude</p> <p>18 with a note that prospective studies are warranted,</p> <p>19 correct?</p> <p>20 MS. O'DELL: Object to the form;</p> <p>21 misrepresents the document.</p> <p>22 A. They conclude with a note that prospective</p> <p>23 studies are warranted.</p> <p>24 Q. (BY MR. JAMES) If we look back at the</p>	<p style="text-align: right;">Page 252</p> <p>1 MR. JAMES: In that section.</p> <p>2 A. I have read this three times, and I'm not</p> <p>3 seeing it. Proposal: To Research Community.</p> <p>4 Q. (BY MR. JAMES) Huh.</p> <p>5 A. Are you looking at the next page, the next</p> <p>6 to the last paragraph?</p> <p>7 Q. Oh. Yes. Thank you.</p> <p>8 A. Okay.</p> <p>9 Q. Page 3.</p> <p>10 A. Page --</p> <p>11 Q. It's the second to the last paragraph.</p> <p>12 A. I gotcha. "While it would not be</p> <p>13 reasonable"?</p> <p>14 Q. Yes, Doctor.</p> <p>15 A. Okay. Yes, I see that.</p> <p>16 Q. Okay. Again, they're calling there for</p> <p>17 cohort studies, cohort prospective studies, correct?</p> <p>18 MS. O'DELL: Object to the</p> <p>19 mischaracterization.</p> <p>20 A. Correct.</p> <p>21 Q. (BY MR. JAMES) And we know that after the</p> <p>22 Langseth 2008 paper, we did have additional cohort</p> <p>23 data published, correct?</p> <p>24 A. The Gates follow-up, you mean?</p>
<p style="text-align: right;">Page 251</p> <p>1 Langseth study.</p> <p>2 MS. O'DELL: 19.</p> <p>3 Q. (BY MR. JAMES) Did you locate it before I</p> <p>4 did?</p> <p>5 A. I got it.</p> <p>6 Q. Okay. I'm coming behind you here. You</p> <p>7 see on page 3 --</p> <p>8 A. My -- it's not paginated, but I'm on the</p> <p>9 third page.</p> <p>10 Q. Oh, thank you. And it's actually -- it</p> <p>11 should be on page 2 because there's only three</p> <p>12 pages.</p> <p>13 A. Okay.</p> <p>14 MS. O'DELL: Is there a specific place</p> <p>15 you want her to read?</p> <p>16 MR. JAMES: I'm still looking.</p> <p>17 (Examined exhibit.)</p> <p>18 Q. (BY MR. JAMES) Do you see in the bottom</p> <p>19 paragraph where the authors there call for the --</p> <p>20 A. "Proposal; To Research Community?"</p> <p>21 Q. Yes. They call for the performance of</p> <p>22 prospective studies.</p> <p>23 MS. O'DELL: Is there a specific place</p> <p>24 you're pointing her to?</p>	<p style="text-align: right;">Page 253</p> <p>1 Q. We had the Gates 2010 paper, correct? The</p> <p>2 Houghton WHI 2014 paper, correct?</p> <p>3 Can you verbally answer, please?</p> <p>4 A. Yes. I'm sorry.</p> <p>5 Q. And the Gonzalez 2016 prospective paper,</p> <p>6 correct?</p> <p>7 A. Correct.</p> <p>8 Q. On page 16, you also remark that "The</p> <p>9 cohort studies were not designed specifically to</p> <p>10 look at talcum powder."</p> <p>11 Do you remember making that remark?</p> <p>12 MS. O'DELL: Where are you?</p> <p>13 MR. JAMES: On page 16 of Dr. Smith's</p> <p>14 report.</p> <p>15 BY MS. O'DELL: Oh, 16.</p> <p>16 Q. (BY MR. JAMES) It's the third par --</p> <p>17 third full paragraph down. "In my opinion"</p> <p>18 paragraph.</p> <p>19 A. "In my opinion, meta-analysis is the most</p> <p>20 valid and reliable way to study an issue like</p> <p>21 ovarian cancer, which is relatively rare and</p> <p>22 requires a long study period to detect. The cohort</p> <p>23 studies were not designed specifically to look at</p> <p>24 talcum powder. Instead, the use of talcum powder is</p>

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<p>1 only one of many queries."</p> <p>2 Q. And that's the question I'm asking you</p> <p>3 right now.</p> <p>4 So there you make the remark that</p> <p>5 cohort studies were not designed specifically to</p> <p>6 look at talc.</p> <p>7 Is that a criticism you have of the</p> <p>8 cohort studies?</p> <p>9 MS. O'DELL: Objection to the --</p> <p>10 object to the form; misstates what's in Dr. --</p> <p>11 Go ahead, Doctor.</p> <p>12 A. I don't find it particularly critical. I</p> <p>13 mean, that -- they're studying lots of things.</p> <p>14 Q. (BY MR. JAMES) So you do not include a</p> <p>15 criticism against the cohort studies for the fact</p> <p>16 that talcum powder is only one of many queries?</p> <p>17 A. That is not a criticism.</p> <p>18 Q. You also make the claim, and if you</p> <p>19 continue on reading, Doctor, that there's a lack of</p> <p>20 power in the cohort studies?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And what is that based on?</p> <p>23 (Deposition Exhibit 26 referenced.)</p> <p>24 A. The numbers. "Power" is the numbers.</p>	<p>1 A. Which table does it have on it? Does it</p> <p>2 have Table 2 on it?</p> <p>3 Q. Yeah. We're looking at page 6 --</p> <p>4 A. Okay.</p> <p>5 Q. -- of Table 2.</p> <p>6 A. Table 2 page.</p> <p>7 Q. Yes. Thanks, Doctor.</p> <p>8 A. All right. Now, okay, so right-hand or</p> <p>9 left-hand column?</p> <p>10 Q. It's the right-hand column.</p> <p>11 A. Okay. Paragraph number?</p> <p>12 Q. It's the first full paragraph --</p> <p>13 A. Okay, great.</p> <p>14 Q. -- in the right-hand column.</p> <p>15 A. Got it.</p> <p>16 Q. And are you reading that paragraph?</p> <p>17 A. Yes.</p> <p>18 Q. Thank you.</p> <p>19 A. (Examined exhibit.) He's talking about</p> <p>20 heterogeneity. I don't think he's . . .</p> <p>21 Q. So that -- Doctor, may I ask you a</p> <p>22 question?</p> <p>23 A. Certainly.</p> <p>24 Q. All right.</p>
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<p>1 Steven Narod, who is a medical</p> <p>2 oncologist and epidemiologist, suggests that in</p> <p>3 cohort studies the critical threshold for finding --</p> <p>4 because of the rarity of ovarian cancer, the</p> <p>5 critical number base is 200,000.</p> <p>6 Only did one cohort study, which is</p> <p>7 Gates, reach 200,000.</p> <p>8 Houghton -- Houghton had 61,576 women.</p> <p>9 Gonzalez had only 41,654 sisters.</p> <p>10 Kind of tiny and underpowered or lack</p> <p>11 of power, and those are epidemiologic terms.</p> <p>12 Q. Did you consider the statements in Berge</p> <p>13 about the power of the cohorts?</p> <p>14 A. I'd have to look at Berge again to see</p> <p>15 what that was. I found it.</p> <p>16 Where do you see that?</p> <p>17 Q. If you look at the right column, the first</p> <p>18 full paragraph.</p> <p>19 A. What page, please?</p> <p>20 Q. Oh, thank you.</p> <p>21 A. Oh, do you have a prob- --</p> <p>22 Q. It's page --</p> <p>23 A. Is this your bad problem?</p> <p>24 Q. Yes. We're gonna --</p>	<p>1 So that paragraph concludes with the</p> <p>2 statement that, quote, "Low power of cohort studies</p> <p>3 cannot be invoked as explanation of the</p> <p>4 heterogeneity results," closed quote, correct?</p> <p>5 A. I am -- I agree with you that that is what</p> <p>6 it says.</p> <p>7 Q. Okay.</p> <p>8 A. I cannot agree to that interpretation.</p> <p>9 Q. Have you performed your own power</p> <p>10 calculations in this case?</p> <p>11 A. I have not.</p> <p>12 Q. Okay. Do you have any reason to disagree</p> <p>13 with the power calculations set forth in the Berge</p> <p>14 paper?</p> <p>15 MS. O'DELL: Object to the form.</p> <p>16 A. The data from the Narod paper.</p> <p>17 Q. (BY MR. JAMES) Do you have any other</p> <p>18 basis upon which you would disagree with the Berge</p> <p>19 power calculations?</p> <p>20 A. No.</p> <p>21 Q. On page 16 of your report, you discuss a</p> <p>22 range by which you believe the risk of ovarian</p> <p>23 cancer is increased by way of talc use, and you</p> <p>24 conclude that it is a 20 to 50 percent range.</p>

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<p style="text-align: right;">Page 258</p> <p>1 Do you see where I am?</p> <p>2 A. I know I wrote that, but -- yes, I found</p> <p>3 it.</p> <p>4 Q. Super.</p> <p>5 It's in the paragraph --</p> <p>6 A. Right.</p> <p>7 Q. -- above Mechanisms?</p> <p>8 A. Right.</p> <p>9 Q. Where do you get that range from?</p> <p>10 A. Smith-Bindman. I don't think I -- I --</p> <p>11 okay. So over all the studies, the meta-analyses,</p> <p>12 they ran from a 1.2 to a serous subtype 1.5.</p> <p>13 In that range, it -- that would be a</p> <p>14 50 -- 20 to 50 percent increase in ovarian cancer.</p> <p>15 Q. In the course of answering that question,</p> <p>16 did you reference Smith-Bindman?</p> <p>17 A. Yeah, at the time I wrote this report, I</p> <p>18 hadn't seen her individual analysis, so I couldn't</p> <p>19 have had that information when I wrote this. I have</p> <p>20 seen it subsequently.</p> <p>21 Q. When you did look at that report?</p> <p>22 A. Her deposition. Probably, I don't know, a</p> <p>23 week-and-a-half ago, week ago. The days are running</p> <p>24 together. Maybe as much as two weeks ago. I don't</p>	<p style="text-align: right;">Page 260</p> <p>1 Dr. Plunkett?</p> <p>2 A. No.</p> <p>3 Q. Those reports that you are provided in</p> <p>4 this case were selected for you by plaintiffs'</p> <p>5 counsel, correct?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. Those two reports.</p> <p>8 Q. (BY MR. JAMES) So to opine that there's a</p> <p>9 20 to 50 percent increased risk for ovarian cancer</p> <p>10 by way of talc use, you said that you -- how did you</p> <p>11 get to the 50 percent again?</p> <p>12 A. That was a high limit in serous in</p> <p>13 Gerrig --</p> <p>14 Q. In Gertig?</p> <p>15 A. -- Gertig. In Gertig.</p> <p>16 The low range was 1 point. I think</p> <p>17 it's 22 or 21. So I put that range.</p> <p>18 Q. And do you have any opinion about where</p> <p>19 the risk actually falls in that range?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. Let's say it's 20 percent. Let's look at</p> <p>22 the lowest possible increase in risk. And let's</p> <p>23 look at the percentage of women who use talc.</p> <p>24 We -- when you use various parameters</p>
<p style="text-align: right;">Page 259</p> <p>1 remember it in relation to Christmas.</p> <p>2 MS. O'DELL: Do you remember -- do --</p> <p>3 are you referring to her report?</p> <p>4 A. Is that her report? Oh, yes, it's not her</p> <p>5 deposition. It's her report.</p> <p>6 Q. (BY MR. JAMES) Did you look at any other</p> <p>7 expert reports in this litigation that we haven't</p> <p>8 discussed today?</p> <p>9 A. I have seen Plunkett.</p> <p>10 Q. Okay. Any others?</p> <p>11 MS. O'DELL: Other than the ones we've</p> <p>12 talked about previously.</p> <p>13 A. Crowley, Longo. None of the GYN</p> <p>14 oncologists. I can't think of any other.</p> <p>15 Q. (BY MR. JAMES) Do you know why you were</p> <p>16 provided the Smith-Bindman report?</p> <p>17 A. Can I tell you why I enjoyed it?</p> <p>18 Q. No.</p> <p>19 Do you know why you were provided it?</p> <p>20 A. I suppose the lawyers wanted me to read</p> <p>21 it.</p> <p>22 Q. Did you ask for it?</p> <p>23 A. No.</p> <p>24 Q. Did you ask for the report from</p>	<p style="text-align: right;">Page 261</p> <p>1 such as Narod did, you're going to come up with</p> <p>2 hundreds of lives interrupted by ovarian cancer. So</p> <p>3 even a 20 percent increase is amazingly clinically</p> <p>4 significant and severe.</p> <p>5 Q. (BY MR. JAMES) Dr. Smith, with due</p> <p>6 respect, that wasn't the question that I asked you.</p> <p>7 A. Okay.</p> <p>8 Q. My question to you is: You've cited in</p> <p>9 your report a range of a 20 to 50 percent increased</p> <p>10 risk of ovarian cancer, correct?</p> <p>11 A. Yes.</p> <p>12 Q. And my question is: Do you have an</p> <p>13 opinion about where -- a more precise opinion about</p> <p>14 where the risk actually falls in that range?</p> <p>15 MS. O'DELL: Object -- object to</p> <p>16 the --</p> <p>17 A. I --</p> <p>18 MS. O'DELL: -- form. The report</p> <p>19 speaks for itself.</p> <p>20 A. I think that range encompassed what the</p> <p>21 truth is. I don't know an exact number that I can</p> <p>22 give you.</p> <p>23 Q. (BY MR. JAMES) And when you answered my</p> <p>24 question in discussion about the 20 percent</p>

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<p>1 increased risk . . .</p> <p>2 A. I was giving you the lowest number.</p> <p>3 Q. And you answered my question -- in the</p> <p>4 manner that you answered my question, that's with</p> <p>5 the assumption that it is a real increased risk,</p> <p>6 correct?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. Correct.</p> <p>9 Q. (BY MR. JAMES) On page 16 and 17 of your</p> <p>10 report, you include a discussion of migration?</p> <p>11 A. Yes.</p> <p>12 Q. And you include the phrase that it is,</p> <p>13 quote, "universally accepted," close quote, by the</p> <p>14 gynecological community --</p> <p>15 A. Correct.</p> <p>16 Q. -- that "the female genital tract</p> <p>17 functions as a conduit for foreign material to enter</p> <p>18 the peritoneal cavity."</p> <p>19 Do you see where I was reading?</p> <p>20 A. I see exactly where it's reading.</p> <p>21 Q. On what basis do you support your claim</p> <p>22 that it is universally accepted?</p> <p>23 A. It's what we teach medical students and</p> <p>24 residents. We have the data of Egli and Sjösten</p>	<p>1 have gone from outside to inside.</p> <p>2 Q. We've talked about the IARC today,</p> <p>3 correct?</p> <p>4 A. Yes.</p> <p>5 Q. Do you know that the IARC has called the</p> <p>6 evidence concerning migration to be relatively weak?</p> <p>7 A. May I see that statement?</p> <p>8 Q. I'm asking you if you're familiar with it?</p> <p>9 A. I don't remember that statement.</p> <p>10 Q. You referenced the FDA statement on</p> <p>11 migration.</p> <p>12 What are you referring to there?</p> <p>13 A. I think they say it's something like</p> <p>14 universally accepted or everybody acknowledges. I</p> <p>15 don't remember the exact words, but they -- they say</p> <p>16 that it's what happens.</p> <p>17 Q. Do you know if the FDA statement you're</p> <p>18 referring to pertains specifically to talc?</p> <p>19 A. No, it doesn't particularly -- it --</p> <p>20 it . . .</p> <p>21 MS. O'DELL: If you need to see the</p> <p>22 statement again, Doctor --</p> <p>23 THE WITNESS: Okay. It should --</p> <p>24 BY MS. O'DELL: -- please take a look.</p>
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<p>1 and -- starts with a K -- uterine peristalsis, and</p> <p>2 the Alba tubal transport dysfunction literature</p> <p>3 through infermil- -- infertility. Looking at</p> <p>4 nonflagellated particles that go through from the</p> <p>5 outside world to the peritoneal cancer -- peritoneal</p> <p>6 cavity via the vagina, cervix, uterus, fallopian</p> <p>7 tube, peritoneal cavity.</p> <p>8 We certainly have all the</p> <p>9 bacteriologic information from chlamydia. Looking</p> <p>10 at the shot we have all the information --</p> <p>11 consistent information on decreasing incidence of</p> <p>12 ovarian cancer with tubal ligation, with</p> <p>13 hysterectomy that blocks that open channel.</p> <p>14 This is -- this is universally</p> <p>15 accepted in my gynecologic/obstetric population.</p> <p>16 I've seen it cited in the FDA without footnote.</p> <p>17 It's kind of like the sun's gonna rise tomorrow and</p> <p>18 things get from the outside world to the peritoneal</p> <p>19 cavity through the patent genital tract of a woman.</p> <p>20 Q. Do you believe it's universally accepted</p> <p>21 that talc is one of the foreign materials that can</p> <p>22 migrate through the genital tract?</p> <p>23 A. I believe it is. It's a particulate.</p> <p>24 It's in the range of all the particles that -- that</p>	<p>1 THE WITNESS: -- be on the bottom down</p> <p>2 here.</p> <p>3 You want to pull IARC while you're</p> <p>4 there?</p> <p>5 I know it's here. It's one of the</p> <p>6 early, early -- nope. We're getting there.</p> <p>7 BY MS. O'DELL: Here you go.</p> <p>8 THE WITNESS: We're getting close to</p> <p>9 it.</p> <p>10 BY MS. O'DELL: (Inaudible.)</p> <p>11 THE WITNESS: I got it. And that's --</p> <p>12 that's the petition. Here's the FDA.</p> <p>13 BY MS. O'DELL: No, no. That's --</p> <p>14 Q. (BY MR. JAMES) Here, I'll see if I can</p> <p>15 find somewhere.</p> <p>16 A. 8?</p> <p>17 Q. Did we find the FDA letter?</p> <p>18 MS. O'DELL: Exhibit 8.</p> <p>19 MR. JAMES: Okay. Super.</p> <p>20 A. (Examined exhibit.) I am not finding what</p> <p>21 I'm looking for.</p> <p>22 Q. (BY MR. JAMES) You want to look on page 5</p> <p>23 of the letter, Dr. Smith? I think that's where</p> <p>24 you're looking.</p>

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<p>1 A. Oh, okay.</p> <p>2 Q. And it's the third full paragraph down.</p> <p>3 A. Here we go. Here we go.</p> <p>4 (Examined exhibit.) Right. "The</p> <p>5 potential for particulates to migrate from the</p> <p>6 perineum and vagina to the peritoneal cavity is</p> <p>7 indisputable."</p> <p>8 Q. So that statement is not a direct</p> <p>9 statement about talc, correct?</p> <p>10 A. Correct.</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 Q. (BY MR. JAMES) You say in the section of</p> <p>13 your report that you reviewed the small number of</p> <p>14 articles that dispute talcum powder's ability to</p> <p>15 reach the tubes and ovaries, but that you, quote,</p> <p>16 "rejected those claims."</p> <p>17 Do you see that passage of your</p> <p>18 report?</p> <p>19 A. Yes.</p> <p>20 Q. What studies did you review and reject?</p> <p>21 A. The one with the cynomolgus monkeys -- I</p> <p>22 can't say that right, cynologus monkeys. I know the</p> <p>23 name of the author.</p> <p>24 Q. Are there any other studies that --</p>	<p>1 talc -- I mean, not talc -- corn starch on gloves,</p> <p>2 seeing those pelvic exam under anesthesia and then</p> <p>3 looking for starch in the peritoneum when the ladies</p> <p>4 get a subsequent hysterectomy, some of the patients</p> <p>5 did not have starch particles go through, but the</p> <p>6 majority did. So it doesn't have to go through</p> <p>7 every time to prove a point.</p> <p>8 Q. Do you believe you conducted a</p> <p>9 comprehensive review of the literature relevant to</p> <p>10 the issue of migration?</p> <p>11 A. I do.</p> <p>12 Q. Did you review all of the relevant animal</p> <p>13 studies pertaining to the issue of migration?</p> <p>14 A. I tried to. I know more about rat and</p> <p>15 rabbit ovaries than I want to.</p> <p>16 MS. O'DELL: There's no question</p> <p>17 pending, Doctor. Thank you.</p> <p>18 Q. (BY MR. JAMES) You discussed the tubal</p> <p>19 ligation data earlier --</p> <p>20 A. Yes.</p> <p>21 Q. -- correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. What is your view on the tubal</p> <p>24 ligation data? Do you find the data there</p>
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<p>1 A. There's two of them.</p> <p>2 Q. Sorry, Doctor.</p> <p>3 A. I'm sorry. There's one with -- there's</p> <p>4 one with two monkeys, and there's one with six</p> <p>5 monkeys or five monkeys, about like that.</p> <p>6 Anyhow, they didn't -- they put</p> <p>7 particulate in the vagina. It did not transport</p> <p>8 into the peritoneal cavity of these sacrifice</p> <p>9 monkeys. And I apologize for spacing out on the</p> <p>10 name of the author. Um --</p> <p>11 Q. Are -- sorry, Doctor.</p> <p>12 MS. O'DELL: Yes, go ahead. Sorry.</p> <p>13 A. There's a rodent study by Wiener, Weiner</p> <p>14 that did not get -- well, everything went through,</p> <p>15 including the controls for black carbon and then</p> <p>16 nothing went through. Let me think of the author of</p> <p>17 those monkeys. Nothing went through in the next set</p> <p>18 of experiments.</p> <p>19 The absence of evidence is not</p> <p>20 evidence of absence. The fact that it doesn't go</p> <p>21 through in somebody's study is not as significant as</p> <p>22 it does go through in somebody else's.</p> <p>23 Q. (BY MR. JAMES) In somebody else's study?</p> <p>24 A. Right. Like even the Sjösten person with</p>	<p>1 consistent or inconsistent?</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 A. I find it consistent.</p> <p>4 MS. O'DELL: Excuse me. Sorry. Keep</p> <p>5 going.</p> <p>6 Q. (BY MR. JAMES) And earlier today, we</p> <p>7 discussed the Terry 2013 study, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. Do you know what the Terry study</p> <p>10 had to say about the tu- -- tubal ligation</p> <p>11 hypothesis?</p> <p>12 A. Not without looking at it. Uh-oh. I've</p> <p>13 got that bad copy that's missing part of a page.</p> <p>14 Q. That's a different copy, Doctor.</p> <p>15 A. That's Katherine Terry.</p> <p>16 Q. Oh, is it?</p> <p>17 A. The first study. It's got a badly copied</p> <p>18 page, so we had to go to the originals. I don't</p> <p>19 know if it's on that page, but . . .</p> <p>20 MS. O'DELL: I've got it here.</p> <p>21 A. Oh, here. I found the -- the tubal</p> <p>22 ligation paper -- chart is on a different page.</p> <p>23 It's not the bad page.</p> <p>24 Q. (BY MR. JAMES) And are you looking at</p>

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<p>1 page 819, Doctor?</p> <p>2 A. Yes.</p> <p>3 Q. Okay.</p> <p>4 A. This has in the cases with ovarian cancer</p> <p>5 there was a lower incidence of tubal ligation than</p> <p>6 in the controls in this study.</p> <p>7 Q. You'd agree the data of the Terry paper is</p> <p>8 not supportive of the tubal ligation hypothesis,</p> <p>9 correct?</p> <p>10 MS. O'DELL: Objection; form.</p> <p>11 A. In this study, the cases had a lower</p> <p>12 instance of ligation than the patients with ovarian</p> <p>13 cancer. So this is not a data point in the whole</p> <p>14 literature of tubal ligation and its protective</p> <p>15 effects.</p> <p>16 Q. (BY MR. JAMES) Did you discuss this</p> <p>17 finding of the Terry paper in your report?</p> <p>18 A. I don't think I did.</p> <p>19 Q. Why not?</p> <p>20 A. Because I think I made a -- a very broad</p> <p>21 statement about tubal ligation.</p> <p>22 Do you know exactly where that is?</p> <p>23 Q. Are we looking at the report or the paper,</p> <p>24 Doctor?</p>	<p>1 menopausal status."</p> <p>2 Do you see where I'm reading? I'm on</p> <p>3 page 14 of your report.</p> <p>4 A. I don't think -- I think it came out to be</p> <p>5 not statistically significant.</p> <p>6 Q. Correct.</p> <p>7 So you do have this report in here,</p> <p>8 correct?</p> <p>9 A. Yeah.</p> <p>10 Q. Okay. So the data, according to your</p> <p>11 report on tubal ligation, is inconsistent, isn't it?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. This single study does not support my</p> <p>14 earlier station. But again, the totality of the</p> <p>15 literature on tubal ligation supports it as</p> <p>16 decreasing risk factor for ovarian carcinoma and</p> <p>17 even your -- some of the other things cited tubal</p> <p>18 ligation.</p> <p>19 MS. O'DELL: What are you looking for,</p> <p>20 Doctor?</p> <p>21 THE WITNESS: SGO and the PDQ risk</p> <p>22 factors.</p> <p>23 MS. O'DELL: Uh-huh.</p> <p>24 THE WITNESS: Yeah.</p>
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<p>1 A. I'm looking at the report on tubal</p> <p>2 ligation.</p> <p>3 MS. O'DELL: I think you're looking</p> <p>4 for page 3, Doctor.</p> <p>5 THE WITNESS: About what?</p> <p>6 MS. O'DELL: Page 3.</p> <p>7 THE WITNESS: Back to page 3?</p> <p>8 A. Oh, the risk? There it is. "Additionally</p> <p>9 there are factors that are recognized as protective</p> <p>10 that include tubal ligation, oral contraceptive use,</p> <p>11 salpingectomy, salpingo-oophorectomy, hysterectomy,</p> <p>12 and breastfeeding."</p> <p>13 Yes, I did not cite the Terry study.</p> <p>14 Q. (BY MR. JAMES) And then on page 14 of</p> <p>15 your report is where you include a more detailed</p> <p>16 discussion of Terry, correct?</p> <p>17 A. Yes.</p> <p>18 Q. Do you include any discussion there of the</p> <p>19 tubal ligation data in that setting?</p> <p>20 A. I do not.</p> <p>21 Q. In fact, you do say here that -- just for</p> <p>22 all candor here, Doctor, if we look on page 14 of</p> <p>23 your paper, you say that "There was no association</p> <p>24 with parity, OC use, tubal ligation status, or</p>	<p>1 A. "If a patient has her tubes tied, a tubal</p> <p>2 ligation, her risk is deeply reduced."</p> <p>3 "Tubal ligation benefits based on</p> <p>4 solid evidence, tubal ligation is associated with a</p> <p>5 decreased risk of ovarian cancer."</p> <p>6 Q. (BY MR. JAMES) Do you find those SGO and</p> <p>7 ACOG statements that you just referred to to be</p> <p>8 informative about risk factors for ovarian cancer?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. No. What I found to be informative of my</p> <p>11 assessment of tubal ligation is a comprehensive view</p> <p>12 of all the literature on tubal ligation through</p> <p>13 numerous papers and a full report that ultimately</p> <p>14 was cut out of this in one of my reports in the</p> <p>15 early drafts.</p> <p>16 MS. O'DELL: Don't discuss drafts.</p> <p>17 THE WITNESS: I'm sorry.</p> <p>18 MS. O'DELL: Thank you.</p> <p>19 THE WITNESS: I'm sorry. I dropped it</p> <p>20 again.</p> <p>21 A. I have completely reviewed the literature.</p> <p>22 I know all the literature on tubal ligation. You</p> <p>23 have -- I mentioned earlier the -- the Cramer study</p> <p>24 that shows tubal ligation increased ovarian cancer;</p>

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<p>1 whereas, Terry's not statistically significant, but</p> <p>2 that's beta error, finding difference where none</p> <p>3 exist.</p> <p>4 The -- the totality of the literature,</p> <p>5 not just a couple of funky websites, tell me that</p> <p>6 tubal ligation decreases the incidence of ovarian</p> <p>7 cancer, and that is because it interrupts the</p> <p>8 conduit from the outer world to the peritoneal</p> <p>9 cavity.</p> <p>10 Q. (BY MR. JAMES) Do you have the Terry</p> <p>11 paper in front of you still, Dr. Smith?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. If we look at page 819, in the</p> <p>14 right-hand column, the bottom first --</p> <p>15 MS. O'DELL: Excuse me, Scott. Can</p> <p>16 you give me just a minute to get there? I can't</p> <p>17 find it.</p> <p>18 MR. JAMES: Sure.</p> <p>19 MS. O'DELL: Yeah. Thank you.</p> <p>20 What page?</p> <p>21 MR. JAMES: 819, the bottom first full</p> <p>22 paragraph that leads with the words, "The biological</p> <p>23 plausibility."</p> <p>24 A. Um-hum. I'm there.</p>	<p>1 oxidative stress, and elevated and inflammatory</p> <p>2 cytokines."</p> <p>3 Do you see that per- -- that sentence</p> <p>4 that I read?</p> <p>5 A. I do.</p> <p>6 Q. Okay.</p> <p>7 A. Yes.</p> <p>8 Q. Do you agree with the Terry authors that</p> <p>9 that is a hypothesis?</p> <p>10 MS. O'DELL: Objection to form.</p> <p>11 A. Yes. I think at the time this was</p> <p>12 written . . .</p> <p>13 Yes, I think that is a hypothesis that</p> <p>14 many people have drawn and is drawn in this paper.</p> <p>15 Q. (BY MR. JAMES) Dr. Smith, with respect to</p> <p>16 your report section that discusses NSAIDs. So I'm</p> <p>17 moving on.</p> <p>18 A. Yes.</p> <p>19 MS. O'DELL: Hey, Scott, if you're</p> <p>20 moving on to another topic, can we take a short</p> <p>21 break?</p> <p>22 MR. JAMES: Absolutely.</p> <p>23 MS. O'DELL: Thank you.</p> <p>24 THE VIDEOGRAPHER: Going off the</p>
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<p>1 Q. (BY MR. JAMES) Do you see where I am?</p> <p>2 A. Yes, I am.</p> <p>3 Q. Okay. If you drop down about halfway</p> <p>4 through that paragraph --</p> <p>5 A. Uh-huh.</p> <p>6 Q. -- the article states, quote,</p> <p>7 "Talc-containing powders are hypothesized to promote</p> <p>8 cancer development by ascending the female genital</p> <p>9 tract and interacting directly with the ovarian</p> <p>10 surface epithelium leading to local inflammation."</p> <p>11 A. Correct.</p> <p>12 Q. Do you agree with the Terry</p> <p>13 characterization of that?</p> <p>14 MS. O'DELL: Would you mind reading</p> <p>15 the full sentence, please?</p> <p>16 A. "Talc" --</p> <p>17 MS. O'DELL: Excuse me. Not you.</p> <p>18 THE WITNESS: Oh, sorry.</p> <p>19 MR. JAMES: Sure. Where did I leave</p> <p>20 off, Leigh?</p> <p>21 MS. O'DELL: You left off "leading to</p> <p>22 local inflammation," and then you stopped.</p> <p>23 Q. (BY MR. JAMES) Okay. "Characterized by</p> <p>24 increased rates of cell division, DNA repair,</p>	<p>1 record. The time is 5:17 p.m.</p> <p>2 (A recess was taken from 5:17 p.m.</p> <p>3 to 5:37 p.m.)</p> <p>4 THE VIDEOGRAPHER: This marks the</p> <p>5 beginning of Disk 3 -- excuse me, Disk 4. Back on</p> <p>6 the record. The time is 5:37 p.m.</p> <p>7 Q. (BY MR. JAMES) Dr. Smith, are you aware</p> <p>8 that the cohort studies that we've discussed today</p> <p>9 have also considered the migration hypothesis by</p> <p>10 considering the data on tubal ligation and ovarian</p> <p>11 cancer?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. I need to look at those studies for the</p> <p>14 specific information. May I retrieve them?</p> <p>15 Q. (BY MR. JAMES) Sure. If I --</p> <p>16 A. Nope.</p> <p>17 Q. If I can refer you first to the Houghton</p> <p>18 WHI study.</p> <p>19 A. Sure. Okay, Gates.</p> <p>20 I need Gertig and I -- have you given</p> <p>21 me Gonzalez?</p> <p>22 Q. We have not marked Gonzalez.</p> <p>23 A. Okay. Then I will not look for it.</p> <p>24 (Examined exhibit.) Yes.</p>

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<p>1 Q. Okay. So are you aware that the cohorts 2 also included data on that hypothesis? 3 MS. O'DELL: Object to the form. 4 A. Now I am, yes. 5 Q. (BY MR. JAMES) Did you cite that data in 6 your report? 7 A. I did not. 8 Q. Earlier you discussed that in 9 acknowledging the Terry finding on tubal ligation 10 that you had considered the entire body of 11 literature, correct? 12 MS. O'DELL: Object to the form. 13 A. Yes. 14 Q. (BY MR. JAMES) And that's one of the 15 reasons that you discounted the Terry finding on the 16 tubal ligation migration issue, correct? 17 MS. O'DELL: Object to the form. 18 A. I didn't discount it. I think the 19 preponderance of all the literature on tubal 20 ligation overpowers a single or two or three reports 21 that do not find tubal ligation important, either 22 not statistically significant or impair prognosis -- 23 increase risk of ovarian cancer. 24 Q. (BY MR. JAMES) Would you weigh the cohort</p>	<p>1 Q. (BY MR. JAMES) And you didn't discuss any 2 of that data in your report, correct? 3 A. I did not. 4 Q. Discussing now where we left off, 5 Dr. Smith, the data on NSAIDs. 6 A. Yes. 7 Q. In your report, you acknowledge the 8 literature on NSAIDs and ovarian cancer risk as 9 inconsistent, correct? 10 A. Yes. And in its totality. 11 Q. And earlier in your report when you list 12 what you considered to be generally accepted 13 protective factors, you do not list NSAIDs, correct? 14 A. Correct. 15 Q. Is that because you believe that it's not 16 generally accepted that NSAIDs apply a protective 17 effect for ovarian cancer? 18 MS. O'DELL: Object to form. 19 A. I don't think we have found the right 20 anti-inflammatories because I don't think we, as a 21 scientific community, do not understand the critical 22 points in inflammation and carcinogenesis and 23 disease progression. 24 So I believe in the future -- and I</p>
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<p>1 data on this issue more heavily than the case 2 controlled data on this issue? 3 MS. O'DELL: Object to the form. 4 A. No. 5 Q. (BY MR. JAMES) Would you consider the 6 data on equal footing? 7 MS. O'DELL: Object to the form. 8 A. I con- -- I can consider all of these 9 individual studies equally. 10 Yes. I consider the case control 11 if -- just because it's a case control study about 12 effects of tubal ligation compared to a cohort 13 study, I don't think that weight is about pa- -- 14 recall of tubal ligation. 15 There -- there are studies on women 16 recalling whether they've had a surgical procedure 17 to end their fertility and they're pretty accurate 18 because it's pretty important to every woman. 19 Q. (BY MR. JAMES) Are you aware of any 20 prospective cohort data that supports the tubal 21 ligation migration hypothesis? 22 MS. O'DELL: Object to the form. 23 A. I cannot give you one off the top of my 24 head.</p>	<p>1 think this is critical -- in the future in 2 laboratory studies when we discern the actual 3 mechanisms of carcinogenesis, enzyme changes, 4 reactive oxygen species, DNA damage, aneuploidy, 5 malignancy, that we will be able to affect 6 inflammation and interrupt it in a -- in a very 7 progressive, protective way. I think that's coming, 8 and it's gonna come out of the lab. 9 Q. (BY MR. JAMES) Is it fair to say that 10 we're not there yet? 11 A. We're not there yet. 12 Q. Are you aware, as of today, with 13 doctors -- a doctor following a standard of care to 14 prescribe NSAIDs to decrease ovarian cancer risk? 15 A. Not in ovarian cancer. 16 Q. Would you agree that some types of 17 inflammation don't increase cancer risk? 18 MS. O'DELL: Object to the form. 19 A. I can think of examples of an acute single 20 inflammation episode that's been studied and not had 21 long-term cancer effects, but I think what we know 22 about cancer is that it is chronic inflammation, 23 repeated insult, the snowballing of the inflammatory 24 cascade inducing enzyme, changes reactive oxygen</p>

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<p style="text-align: right;">Page 282</p> <p>1 species, reactive nitrogen species and ultimately</p> <p>2 DNA alteration, inducing driver mutations and</p> <p>3 starting this thing going and then causing it to</p> <p>4 progress.</p> <p>5 Q. (BY MR. JAMES) Do you believe rheumatoid</p> <p>6 arthritis is associated with cancer?</p> <p>7 A. I have not reviewed that literature, and I</p> <p>8 cannot comment on that.</p> <p>9 Q. Can you think of any inflammatory</p> <p>10 conditions, as you sit here today, that are not</p> <p>11 associated with cancer?</p> <p>12 A. That are not associated with cancer?</p> <p>13 Q. Correct. Correct.</p> <p>14 MS. O'DELL: Object to the form.</p> <p>15 A. I haven't studied all inflammatory</p> <p>16 conditions.</p> <p>17 Q. (BY MR. JAMES) Did you look for</p> <p>18 genotoxicity studies in conducting your review in</p> <p>19 this case?</p> <p>20 A. Yes.</p> <p>21 Q. Okay. Did you review any?</p> <p>22 A. Yes.</p> <p>23 Q. Which ones?</p> <p>24 A. There is an article on nanoparticles and</p>	<p style="text-align: right;">Page 284</p> <p>1 asked to review his literature.</p> <p>2 Q. Do you know anything about his connection</p> <p>3 to this litigation?</p> <p>4 A. Yes, I do.</p> <p>5 Q. What do you know?</p> <p>6 A. I know that I suggested to Dr. Thompson</p> <p>7 that she get in touch with him and start reading his</p> <p>8 literature.</p> <p>9 Q. So were you the first point of contact</p> <p>10 between plaintiffs' counsel and Dr. Saed?</p> <p>11 A. I was the name. I was the person that</p> <p>12 gave them his name.</p> <p>13 Q. And how did you know Dr. Saed again?</p> <p>14 A. I don't know him. I just read his papers.</p> <p>15 Q. How did you become --</p> <p>16 A. I think they're good.</p> <p>17 Q. How did you become familiar with him or</p> <p>18 aware of him, just through his papers?</p> <p>19 A. Through his papers and looking at</p> <p>20 inflammation in ovarian cancer and reading GY --</p> <p>21 he's published in GY Oncology before. I just knew</p> <p>22 his paper. Maura Fletcher [sic, Nicole] who's in</p> <p>23 his lab, I think I saw her papers first.</p> <p>24 Q. Do you know Fletcher?</p>
<p style="text-align: right;">Page 283</p> <p>1 talc. There is -- and I cannot remember the name of</p> <p>2 the author for the life of me. I can see the</p> <p>3 heading and there is a growing body of evidence on</p> <p>4 the role inflammation plays in the development of</p> <p>5 ovarian cancer.</p> <p>6 And their initial papers are more</p> <p>7 about oxidative stress in the pathogenesis of</p> <p>8 ovarian cancer. A group at Wayne State University</p> <p>9 have been looking at this for several years.</p> <p>10 Q. Do you know Dr. Saed?</p> <p>11 A. I have never met him. I've just read his</p> <p>12 stuff.</p> <p>13 Q. Had you read his papers before you were</p> <p>14 retained as an expert in this litigation?</p> <p>15 A. Yes.</p> <p>16 Q. You had read his papers?</p> <p>17 A. Yes.</p> <p>18 Q. When did you read his papers?</p> <p>19 A. Just in the course of -- he's presented at</p> <p>20 SGO before.</p> <p>21 Q. Do you know when?</p> <p>22 A. I know he -- oh, I know he had an abstract</p> <p>23 in '17. I think he's been there before that. And</p> <p>24 then I went deep diving into his paper after I was</p>	<p style="text-align: right;">Page 285</p> <p>1 A. I don't know any of them. I don't know</p> <p>2 anybody in -- I don't know where Wayne State is.</p> <p>3 It's in Michigan somewhere. I don't know anybody</p> <p>4 there.</p> <p>5 Q. Do you know if plaintiffs' counsel had a</p> <p>6 litigation relationship with Dr. Saed before you</p> <p>7 identified Dr. Saed as someone they should contact?</p> <p>8 A. I don't know if they did, but they may</p> <p>9 have. I don't know that.</p> <p>10 Q. Do you know anything about the funding of</p> <p>11 his studies?</p> <p>12 A. I do not.</p> <p>13 Q. And when were you retained in this</p> <p>14 litigation, it was 2017?</p> <p>15 A. January of 2017 was the first time that</p> <p>16 they asked me to look at the literature.</p> <p>17 Q. I looked at your references in your</p> <p>18 materials considered list. I didn't see reference</p> <p>19 to an Endo-Capron study.</p> <p>20 Does that title ring any bells with</p> <p>21 you, Endo-Capron?</p> <p>22 A. I don't -- it does not ring any bells.</p> <p>23 Q. If that study and a body of other studies</p> <p>24 on genotoxicity are not listed in your references</p>

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<p>1 list or your materials considered list, may I 2 assume, then, that you didn't review those studies? 3 MS. O'DELL: Excuse me. I object to 4 the question. I think it's vague. If there's a 5 specific study you want to ask her about, then you 6 know she's happy to review it and comment if you ask 7 her questions, but to the degree you've referenced, 8 quote, "a body of literature," that may not be the 9 way Dr. Smith is aware of it. 10 I object to the question. 11 MR. JAMES: Speaking objection is 12 noted. You can answer the question. 13 MS. O'DELL: Objection is noted. 14 MR. JAMES: Your speaking objection is 15 noted. That you've been speaking all day. So thank 16 you. 17 A. Could you ask the question again? I'm so 18 lost. 19 Q. (BY MR. JAMES) Okay. Let's start with 20 the Endo-Capron study. 21 If the Endo-Capron study is not listed 22 in your materials considered or reference list, then 23 may I safely presume that you did not review that 24 study?</p>	<p>1 A. I would presume so. 2 Q. (BY MR. JAMES) Are you aware of any 3 studies that have reported inflammation, granulomas, 4 or foreign body reactions in the ovarian tissue of a 5 woman following her usage of talcum powder products? 6 MS. O'DELL: Object- -- 7 A. I -- 8 THE WITNESS: Sorry, were you saying 9 something? 10 MS. O'DELL: Give me just a moment 11 here. 12 A. I know of -- I do not know of a human 13 study with talc related granuloma. 14 Q. (BY MR. JAMES) With respect to your 15 Bradford Hill analysis, Dr. Smith, we have covered a 16 lot of that along the way today, and so I'm going to 17 jump around just a little bit in hopes of moving us 18 along. Okay? 19 A. Okay. 20 Q. So with regard to specificity, which is 21 one of the factors you've analyzed in your report, 22 correct? 23 A. Yes. 24 Q. Do you believe that factor was met here on</p>
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<p>1 MS. O'DELL: Objection. It goes to -- 2 A. Do you know who the author is? 3 MS. O'DELL: Excuse me. Excuse me. 4 Object to the form. 5 A. I mean, do I know -- would I know it by an 6 authors' name or another name of Endo-Capron? 7 Does it stand for something? 8 Q. (BY MR. JAMES) If you have not listed the 9 study in your references or materials considered 10 list, then may I assume or presume that you did not 11 review that study? 12 MS. O'DELL: Object to the form. 13 A. I don't recognize that study. I -- 14 with -- I can't give you more information. 15 MS. O'DELL: It's -- 16 Q. (BY MR. JAMES) If you have reviewed -- 17 MR. JAMES: This is a very simple 18 question, Leigh. 19 Q. (BY MR. JAMES) If you have reviewed a 20 piece of literature, whether you've cited it, 21 considered it, or referred to it, it would be listed 22 somewhere in your references list or your materials 23 considered list, correct? 24 MS. O'DELL: Objection to form.</p>	<p>1 this body of literature? 2 A. I . . . I think the -- 3 Q. And I believe -- sorry, Doctor. 4 A. -- body of all the work cited here 5 supports that criteria. I don't think that's as 6 important as the consistency and the strength. 7 Q. We have discussed strength earlier today, 8 and I don't want to replot ground that we have 9 plowed, but, in your opinion, is the criteria of 10 strength met on this body of literature? 11 A. I believe that. 12 Q. Can you cite any study or scientific 13 literature that characterizes the association at 14 issue as an association that is strong? 15 MS. O'DELL: Object to the form. 16 A. The numbers are what they are and 17 statistically significant and clinically 18 significant. 19 Q. (BY MR. JAMES) Can you cite to a single 20 study that characterizes the odds ratio or 21 association as strong? 22 MS. O'DELL: Object to the form. 23 Q. (BY MR. JAMES) That's a "yes" or "no" 24 question.</p>

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<p style="text-align: right;">Page 290</p> <p>1 MS. O'DELL: Object to the form.</p> <p>2 A. I haven't read the word "strong" in those</p> <p>3 studies.</p> <p>4 Q. (BY MR. JAMES) Do you believe the</p> <p>5 criteria consistency is met?</p> <p>6 A. Oh, yes.</p> <p>7 Q. Do you acknowledge that there is an</p> <p>8 inconsistency with respect to the results based upon</p> <p>9 the design study -- correct?</p> <p>10 MS. O'DELL: Objection to the form.</p> <p>11 A. You mean the cohort studies?</p> <p>12 Q. (BY MR. JAMES) Yes. Do you acknowledge</p> <p>13 that there is an inconsistency between the results</p> <p>14 produced by the cohort studies as compared to the</p> <p>15 results produced by the case control studies?</p> <p>16 A. Individually, but not in the meta -- not</p> <p>17 with their inclusion in the meta-analyses.</p> <p>18 So you're looking at individual</p> <p>19 studies, but when they go into the whole stew pot it</p> <p>20 becomes statistically significant and consistent.</p> <p>21 Q. And that brings us back to the word of</p> <p>22 heterogeneity that we discussed a bit earlier in the</p> <p>23 Berge study.</p> <p>24 But do you understand that in the</p>	<p style="text-align: right;">Page 292</p> <p>1 study.</p> <p>2 Q. (BY MR. JAMES) We discussed already that</p> <p>3 in the Penninkilampi study the finding that they</p> <p>4 included in that study based upon cohort studies</p> <p>5 omitted the data from the Gates 2010 study, correct?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 A. Correct. We have discussed that.</p> <p>8 Q. (BY MR. JAMES) Would you agree that a</p> <p>9 lack of data on dose response, in a hypothetical</p> <p>10 situation, would counter against a causal</p> <p>11 interpretation?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. That is one of the factors that one</p> <p>14 considers in determining causality.</p> <p>15 Q. (BY MR. JAMES) Do you believe dose</p> <p>16 response is met on the body of literature here?</p> <p>17 A. On the epidemiologic da- -- data, it --</p> <p>18 their dose response is equivocal. Penninkilampi</p> <p>19 found dose response in the -- in the meta-analysis,</p> <p>20 whereas Berge didn't.</p> <p>21 Q. Let me finish, Doctor. I'm sorry.</p> <p>22 A. I think it's -- as I said in my report, it</p> <p>23 is very difficult, even if you look at -- so many</p> <p>24 studies did not look at frequency and duration.</p>
<p style="text-align: right;">Page 291</p> <p>1 Berge study one of the detractors from the causal</p> <p>2 interpretation was the heterogeneity between study</p> <p>3 and design?</p> <p>4 Do you understand that?</p> <p>5 MS. O'DELL: Object to the form.</p> <p>6 A. They didn't quantitate heterogeneity like</p> <p>7 they did in the Penninkilampi study which actually</p> <p>8 quantitated heterogeneity on the Newhouse Ottawa</p> <p>9 Scale [sic, Newcastle], so I think it's better to</p> <p>10 look at that. And none -- none of the studies in</p> <p>11 Penninkilampi had an NOS score less than 5, which</p> <p>12 meant they didn't have to get rid of anything for</p> <p>13 lack of -- for -- because of heterogeneity, and the</p> <p>14 cohort studies were in there. So I think we have a</p> <p>15 better idea of assessment of heterogeneity in</p> <p>16 that -- in that study.</p> <p>17 Q. (BY MR. JAMES) Okay. And my question is:</p> <p>18 Do you acknowledge that in the Berge study, one of</p> <p>19 the reasons the authors of that study concluded that</p> <p>20 the caus- -- causal interpretation was not</p> <p>21 appropriate was because of the lack of consistency</p> <p>22 between study design?</p> <p>23 MS. O'DELL: Object to form.</p> <p>24 A. I agree with you that is a quote from that</p>	<p style="text-align: right;">Page 293</p> <p>1 For example, Gertig, one of the cohort</p> <p>2 studies is ever/never in 1982. But many of the</p> <p>3 other studies didn't look at dose, duration,</p> <p>4 frequency, and how do you -- how do you establish</p> <p>5 dose in pouring powder on your bottom.</p> <p>6 So I -- I am not surprised that it's</p> <p>7 been in the epidemiologic literature very difficult</p> <p>8 to establish clear dose response curves.</p> <p>9 Q. You mentioned the Gertig study in your</p> <p>10 answer, Dr. Smith.</p> <p>11 And do you understand that the Gertig</p> <p>12 study did look at frequency?</p> <p>13 A. I thought the Gertig study was the Nurses'</p> <p>14 study, and they asked in 1982 ever/never, single</p> <p>15 time, and they never queried again.</p> <p>16 Q. So you're unaware of the fact that the</p> <p>17 Nurses' Health study included information on</p> <p>18 frequency?</p> <p>19 MS. O'DELL: Objection; form.</p> <p>20 Misstates.</p> <p>21 A. Let me look at it. It's right on top.</p> <p>22 (Examined exhibit.) They were given</p> <p>23 one assessment, no daily, one to six times a week,</p> <p>24 less than once a week, on sanitary napkins, yes, no,</p>

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<p>1 one time.</p> <p>2 That's not -- that's not a decent</p> <p>3 frequency and duration. I'm sorry. You don't know</p> <p>4 how long. You ask it one time. You don't account</p> <p>5 for changes in practices. That's not valid.</p> <p>6 Q. (BY MR. JAMES) Do you acknowledge that</p> <p>7 frequency is a valid measure of dose response?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. It's a measure of assessing dose response.</p> <p>10 Q. (BY MR. JAMES) Do you acknowledge</p> <p>11 duration is a measure of assessing dose response?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. Yes.</p> <p>14 Q. (BY MR. JAMES) Are you aware that there</p> <p>15 are case control studies that have looked at</p> <p>16 duration and frequency and found no dose response?</p> <p>17 MS. O'DELL: Object to the form.</p> <p>18 A. Yes.</p> <p>19 Q. (BY MR. JAMES) And, in fact, the studies</p> <p>20 that -- those studies are cited in your Exhibit B,</p> <p>21 correct?</p> <p>22 A. These are only single case control studies</p> <p>23 in Exhibit B, and I looked at dose responses. I</p> <p>24 read through the studies, and they attempted to do</p>	<p>1 on my Exhibit B chart in the Comments section.</p> <p>2 Q. And so my question that I think I</p> <p>3 originally posed is: Do you consider those findings</p> <p>4 relevant to your opinions today?</p> <p>5 A. They are a component of my -- of genital</p> <p>6 talc use, so, yes, they are a component of my</p> <p>7 opinion.</p> <p>8 Q. Do you understand the data in those</p> <p>9 studies does not show an association between the use</p> <p>10 of talcum powder on condoms, diaphragms, and</p> <p>11 sanitary napkins in ovarian cancer?</p> <p>12 MS. O'DELL: Object to the form.</p> <p>13 A. Most -- most studies, when you broke them</p> <p>14 down, they lost -- they did not have statistical</p> <p>15 significance. Your statement is correct.</p> <p>16 (Discussion off the record.)</p> <p>17 MR. SILVER: Could we go off the</p> <p>18 record?</p> <p>19 THE VIDEOGRAPHER: Going off the</p> <p>20 record. The time is 6:05 p.m.</p> <p>21 (A recess was taken from 6:05 p.m.</p> <p>22 to 6:16 p.m.)</p> <p>23 THE VIDEOGRAPHER: Back on the record.</p> <p>24 The time is 6:16 p.m.</p>
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<p>1 that.</p> <p>2 Q. You acknowledged that some of the dose --</p> <p>3 excuse me, some of the case control studies that you</p> <p>4 cited do not show dose response, correct?</p> <p>5 A. I would say the majority do not show dose</p> <p>6 response with a single epi case control studies.</p> <p>7 Q. Did you consider the findings in the</p> <p>8 studies that you cited and in other literature</p> <p>9 pertaining to the use of talcum powder on condoms,</p> <p>10 diaphragms, or sanitary napkins?</p> <p>11 A. No.</p> <p>12 Q. Why not?</p> <p>13 A. Well, the good people that make condoms</p> <p>14 eliminated talc exposure on condoms in the 1990s.</p> <p>15 That's a very smart move.</p> <p>16 And then you start breaking down sales</p> <p>17 of these populations into small enough groups that</p> <p>18 you lose the ability to have statistical</p> <p>19 significance.</p> <p>20 Q. Do you understand the number of articles</p> <p>21 that you've cited and discussed in your report do</p> <p>22 include -- include finding on odds ratios associated</p> <p>23 with sanitary napkins, diaphragms, and condoms?</p> <p>24 A. Right. And I -- and I put some of those</p>	<p>1 MR. JAMES: Dr. Smith, thank you for</p> <p>2 your time. That's all the questions I have for now.</p> <p>3 THE WITNESS: Thank you.</p> <p>4 EXAMINATION</p> <p>5 BY MR. KLATT:</p> <p>6 Q. Dr. Smith, my name is Mike Klatt --</p> <p>7 A. Hi.</p> <p>8 Q. -- and I represent Imerys Talc America.</p> <p>9 Do you know what Imerys Talc America</p> <p>10 is?</p> <p>11 A. Yes.</p> <p>12 Q. What are they?</p> <p>13 A. They are -- own the mines from which the</p> <p>14 talc is mined.</p> <p>15 Q. Do you know what years they owned the</p> <p>16 mines from which the talc is mined and used in the</p> <p>17 Johnson & Johnson talc-based body powder product?</p> <p>18 A. I know it's more recent, but I don't know</p> <p>19 the exact dates.</p> <p>20 Q. Do you know who owned the mines before</p> <p>21 Imerys owned them?</p> <p>22 A. Lusignac, which I think was J&J.</p> <p>23 Q. No, Lusignac is Imerys, my client.</p> <p>24 A. Oh, is Imerys. Okay.</p>

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<p style="text-align: right;">Page 298</p> <p>1 Q. So who owned it before Lusignac and 2 Imerys? Do you know? 3 A. J&J, I believe. 4 Q. Okay. I'm gonna skip around because a lot 5 of ground's been covered today -- 6 A. Okay. 7 Q. -- and I just have follow-ups on a bunch 8 of different areas, so -- 9 A. Okay. 10 Q. -- I'll be skipping from subject to 11 subject, and it's pretty random here. 12 You said earlier today that you knew 13 Dr. Hal Lawrence with ACOG? 14 A. Yes. 15 Q. If you communicate with Dr. Hal Lawrence, 16 or anybody else outside of this litigation, on the 17 subject of talc and ovarian cancer, are you gonna 18 disclose to them that you're a paid expert for 19 plaintiffs in the litigation? 20 BY MS. O'DELL: Object to the -- 21 A. No. 22 MS. O'DELL: Object to the form. 23 A. No. And I haven't talked to Dr. Lough- -- 24 Lawrence in 40 years.</p>	<p style="text-align: right;">Page 300</p> <p>1 looking at as the next exhibit, 28. If you can 2 please, Dr. Smith, put this sticker on here. 3 (Deposition Exhibit 27 and 28 marked 4 for identification.) 5 Q. (BY MR. KLATT) Have you read Dr. Hopkins 6 multiday deposition where he was questioned about 7 what you're looking at right now, Exhibit 28? 8 A. I have not read it in detail. 9 Q. Have you read Ms. Pier's deposition where 10 she was questioned about Exhibit 27? 11 A. I have not read it in detail. 12 Q. Do you know that Exhibit 27 and 28 that 13 you're looking at are attorney created charts? 14 MS. O'DELL: Objection; misrepresents 15 the record. 16 MR. KLATT: Not at all. It's exactly 17 what happened. 18 MS. O'DELL: Objection. 19 A. I have another J&J sample here from 20 3-3-87. You want to just -- 21 MR. JAMES: Objection; nonresponsive. 22 Q. (BY MR. KLATT) Have you read Dr. Hopkins 23 multiday deposition that resulted in the creation of 24 Exhibit 28 --</p>
<p style="text-align: right;">Page 299</p> <p>1 Q. (BY MR. KLATT) Okay. But I'm just asking 2 in the future. 3 Q. (BY MR. KLATT) You understand that Imerys 4 tests talc of competitors. It tests talc from mines 5 that are never used for body powder. It tests talc 6 from portions of mines that are never used for any 7 purpose. 8 You can't tell me that any of these 9 samples ended up in Johnson & Johnson Body Powder, 10 can you? 11 MS. O'DELL: Objection to the form; 12 misstates the evidence, misleading, mischaracterizes 13 the document. 14 A. (Examined document.) 9-9-1975, Johnson's 15 Baby Powder anthophyllite and tremolite on the 28. 16 Q. (BY MR. KLATT) And do you have any proof 17 that Imerys owned the mines that that sample came 18 from at the time it was tested? 19 MS. O'DELL: Objection. 20 A. I don't. 21 Q. (BY MR. KLATT) I'm sorry? 22 MS. O'DELL: Objection. 23 A. I don't know when Imerys bought the mine. 24 Q. (BY MR. KLATT) And let's mark what you're</p>	<p style="text-align: right;">Page 301</p> <p>1 (Speaking simultaneously.) 2 A. No. 3 Q. (BY MR. KLATT) -- or Ms. -- 4 A. Not in detail -- 5 Q. -- or Ms. Pier's -- 6 A. -- no. 7 Q. -- deposition -- 8 MS. O'DELL: Let him finish. 9 Q. (BY MR. KLATT) -- that resulted in the 10 creation of Exhibit 27 to your deposition? 11 A. Not in detail. 12 Q. Do you understand that they had 13 explanations why each of those items that you're 14 looking at had nothing to do with any asbestos in 15 Johnson & Johnson Baby Powder? 16 MS. O'DELL: Objection. 17 A. I did not know that. 18 Q. (BY MR. KLATT) And if you were being 19 objective, you would weigh their explanations in 20 contrast to Dr. Longo's testimony that you're just 21 accepting at face value, correct? 22 MS. O'DELL: Objection; misstates the 23 record. 24 A. I think there are three different</p>

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<p>1 determinations.</p> <p>2 Q. (BY MR. KLATT) Well, you're just assuming</p> <p>3 what Dr. Longo found was valid, correct?</p> <p>4 MS. O'DELL: Objection. An expert is</p> <p>5 allowed to rely on another expert.</p> <p>6 You may answer the question if you</p> <p>7 understand.</p> <p>8 THE WITNESS: An expert is allowed to</p> <p>9 what?</p> <p>10 MS. O'DELL: To rely on the findings</p> <p>11 of another expert as counsel knows.</p> <p>12 A. I have no reason to doubt Dr. Longo's</p> <p>13 technique.</p> <p>14 Q. (BY MR. KLATT) Do you know anything about</p> <p>15 his technique?</p> <p>16 A. I have read it in his report, but I don't</p> <p>17 remember off the top of my head.</p> <p>18 Q. Have you -- do you have any expertise</p> <p>19 yourself in how to test a product to see whether</p> <p>20 there's asbestos in it?</p> <p>21 A. Only in the broadest general TEM, SEM, XRD</p> <p>22 case. I don't know how to perform any of those.</p> <p>23 Q. But let's -- you would agree with me</p> <p>24 that you accept -- you don't know Dr. Longo</p>	<p>1 MS. O'DELL: Objection. Incomplete --</p> <p>2 Q. (BY MR. KLATT) -- body powders, correct?</p> <p>3 MS. O'DELL: Excuse me. Objection;</p> <p>4 incomplete hypothetical. The Court will not make</p> <p>5 findings of fact. That's a jury's job and counsel</p> <p>6 knows that.</p> <p>7 MR. KLATT: Absolutely not. This</p> <p>8 court can exclude that evidence under Daubert, and</p> <p>9 you know it.</p> <p>10 MS. O'DELL: That's not a finding of</p> <p>11 fact, and you know that. End of story.</p> <p>12 MR. KLATT: But they can find that the</p> <p>13 methodology used is inadequate to show that there's</p> <p>14 asbestos in this product.</p> <p>15 MS. O'DELL: Which is not what you</p> <p>16 just said, and you know that, so it misstates the</p> <p>17 process.</p> <p>18 (Speaking simultaneously.)</p> <p>19 MR. JAMES: Ms. O'Dell --</p> <p>20 Q. (BY MR. KLATT) Well, let me ask you</p> <p>21 this --</p> <p>22 MR. JAMES: -- make your objections</p> <p>23 and let the record proceed.</p> <p>24 Q. (BY MR. KLATT) If the judge in this</p>
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<p>1 personally, correct?</p> <p>2 A. Not at all.</p> <p>3 Q. And you know nothing about his background</p> <p>4 or qualifications, correct?</p> <p>5 A. I have not --</p> <p>6 MS. O'DELL: Objection.</p> <p>7 A. -- studied his CV.</p> <p>8 Q. (BY MR. KLATT) But you were willing to</p> <p>9 accept his conclusions about asbestos being in body</p> <p>10 powder at face value, but you didn't even bother to</p> <p>11 look at the explanations that Dr. Hopkins from</p> <p>12 Johnson & Johnson or Ms. Pier from Imerys gave that</p> <p>13 asbestos isn't in body powder --</p> <p>14 MS. O'DELL: Objection --</p> <p>15 Q. (BY MR. KLATT) -- correct?</p> <p>16 MS. O'DELL: Objection to the form.</p> <p>17 Misstates the record.</p> <p>18 A. I have not read their depositions.</p> <p>19 Q. (BY MR. KLATT) If this court were to</p> <p>20 determine when it examines the evidence that</p> <p>21 Dr. Longo's testing does not show asbestos in</p> <p>22 Johnson & Johnson Body Powder, you would have no</p> <p>23 basis -- other basis to say that there is asbestos</p> <p>24 in Johnson & Johnson --</p>	<p>1 case --</p> <p>2 MS. O'DELL: The record --</p> <p>3 MR. JAMES: That's the way it's</p> <p>4 supposed to work.</p> <p>5 Q. (BY MR. KLATT) If the judge in this case</p> <p>6 concludes that Dr. Longo's methodology is inadequate</p> <p>7 to show that asbestos is in Johnson & Johnson Body</p> <p>8 Powder, then you have no basis to say that it is,</p> <p>9 correct?</p> <p>10 MS. O'DELL: Objection to the form.</p> <p>11 Misstates the record.</p> <p>12 A. I'd have to think about that.</p> <p>13 Q. (BY MR. KLATT) Are Exhibit 27 and 28 and</p> <p>14 Dr. Longo's testing the only documents you're</p> <p>15 relying on regarding asbestos being in Johnson &</p> <p>16 Johnson Body Powder products?</p> <p>17 MS. O'DELL: Objection to form.</p> <p>18 A. No. There is the Blount deposition</p> <p>19 that --</p> <p>20 Q. (BY MR. KLATT) Do you know whether that</p> <p>21 has anything to --</p> <p>22 MS. O'DELL: Let her finish, please,</p> <p>23 sir.</p> <p>24 Q. (BY MR. KLATT) I'm sorry. Go ahead.</p>

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<p>1 MS. O'DELL: Let her finish.</p> <p>2 Go ahead.</p> <p>3 A. -- that identified asbestos in Baby</p> <p>4 Powder, Johnson's -- the -- that she identified as</p> <p>5 Johnson's Baby Powder.</p> <p>6 Q. (BY MR. KLATT) Do you know whether that</p> <p>7 Baby Powder --</p> <p>8 MS. O'DELL: Let her -- I don't think</p> <p>9 she's done.</p> <p>10 Q. (BY MR. KLATT) -- was supplied by Imerys?</p> <p>11 MS. O'DELL: I don't think she --</p> <p>12 she's done.</p> <p>13 A. I haven't finished thinking. I cannot</p> <p>14 think of another example at the top of -- off my</p> <p>15 head at this hour.</p> <p>16 Q. (BY MR. KLATT) Do you know whether</p> <p>17 Dr. Blount's finding of asbestos that you just</p> <p>18 referred to involved talc supplied by Imerys?</p> <p>19 A. As I answered previously, I do not know</p> <p>20 when Imerys assumed ownership of those mines.</p> <p>21 Q. So you can't tell the Court whether</p> <p>22 Dr. Blount's testing was testing talc from Imerys or</p> <p>23 not, correct?</p> <p>24 MS. O'DELL: Objection to form.</p>	<p>1 for a second. I think I'm done. I just need to</p> <p>2 look back over my notes.</p> <p>3 THE VIDEOGRAPHER: Going off the</p> <p>4 record. The time is 7:06 p.m.</p> <p>5 (Ms. Brown left the room.)</p> <p>6 (A recess was taken from 7:06 p.m.</p> <p>7 to 7:39 p.m.)</p> <p>8 THE VIDEOGRAPHER: Back on the record.</p> <p>9 The time is 7:39 p.m.</p> <p>10 MR. KLATT: I'm done with my</p> <p>11 questioning, subject to any follow-up, so . . .</p> <p>12 EXAMINATION</p> <p>13 BY MS. O'DELL:</p> <p>14 Q. Dr. Smith, I've got a few questions for</p> <p>15 you.</p> <p>16 A. Okey-doke.</p> <p>17 Q. I know it's been a long day so I'll be</p> <p>18 brief.</p> <p>19 You were asked a series of questions</p> <p>20 about the presence of asbestos in Johnson's Baby</p> <p>21 Powder and Shower to Shower.</p> <p>22 Do you remember those questions?</p> <p>23 A. I remember I was asked them.</p> <p>24 Q. Good answer to not a very specific</p>
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<p>1 A. I cannot.</p> <p>2 MS. O'DELL: Misstates the record.</p> <p>3 Q. (BY MR. KLATT) You're charging \$600 an</p> <p>4 hour; is that correct?</p> <p>5 A. I am.</p> <p>6 Q. Is that for all work you're doing in the</p> <p>7 case, including testimony, whether it's in a</p> <p>8 deposition or in a court of law?</p> <p>9 A. I believe there's a flat daily rate. I'm</p> <p>10 not sure about this, but I believe that a flat daily</p> <p>11 rate of 800 hours in one day is only \$5,000. That</p> <p>12 was an exaggeration. I'm trying to show that I've</p> <p>13 retained my sense of humor.</p> <p>14 Q. I think what you were saying is that if</p> <p>15 testimony lasted all day there would be a flat rate</p> <p>16 of \$5,000 --</p> <p>17 A. Correct.</p> <p>18 Q. -- is that correct?</p> <p>19 But if it's broken down by an hourly</p> <p>20 basis, whether you're doing reading or testifying,</p> <p>21 it's all \$600 an hour?</p> <p>22 A. That -- I agree with that.</p> <p>23 Q. Okay.</p> <p>24 MR. KLATT: Can we go off the record</p>	<p>1 question.</p> <p>2 Don't remember the specific questions,</p> <p>3 but you were asked about those topics?</p> <p>4 A. Yes.</p> <p>5 Q. And let me show you what I'm marking as</p> <p>6 Exhibit 29, which is Dr. Longo's report.</p> <p>7 (Deposition Exhibit 29 marked for</p> <p>8 identification.)</p> <p>9 Q. (BY MS. O'DELL) Are you, in part, relying</p> <p>10 on Dr. Longo's testing and his findings of the</p> <p>11 presence of asbestos in historical samples of</p> <p>12 Johnson's Baby Powder and Shower to Shower?</p> <p>13 A. Yes.</p> <p>14 Q. And from your review of Dr. Longo's</p> <p>15 report, he found -- did he find asbestos in a number</p> <p>16 of samples?</p> <p>17 A. He found --</p> <p>18 MR. JAMES: Objection; leading.</p> <p>19 A. He found asbestos in 66 percent of the</p> <p>20 samples he tested.</p> <p>21 Q. (BY MS. O'DELL) And did he test samples</p> <p>22 from a time period of the 1960s into the 1990s?</p> <p>23 MR. JAMES: Objection; leading.</p> <p>24 MR. KLATT: Object to form.</p>

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<p>1 A. Yes. And memory serves the last date on 2 his report was 2000, but there was a chart that I 3 saw. 4 Q. (BY MS. O'DELL) Is -- is -- what other -- 5 and you would defer to Dr. Longo on the testing 6 methodology that's appropriate for identifying 7 asbestos in Johnson's Baby Powder and Shower to 8 Shower? 9 MR. JAMES: Objection; form. 10 A. Yes. 11 Q. (BY MS. O'DELL) Would you also -- well, 12 strike that. 13 Did Dr. Longo also test for the 14 presence of fibrous talc? 15 A. He did. 16 MR. JAMES: Objection; form. 17 Q. (BY MS. O'DELL) Did he -- were there -- 18 what do you recall about Dr. Longo's findings 19 regarding fibrous talc? 20 A. I believe the vast majority of his samples 21 had fibrous talc. If memory serves, there's only 22 one sample in which he could not demonstrate fibrous 23 talc. 24 Q. And -- and you -- would you defer to</p>	<p>1 fibers. 2 And the now labeled Exhibit 27 by Pier 3 from -- deposition of Pier had Johnson & Johnson 4 sample demonstrating chrysotile and tremolite. 5 Q. And is there also published literature 6 that -- in addition to Dr. Blount that reports 7 finding asbestos in cosmetic powders? 8 A. Yes. Those references are listed in the 9 very first sentence of my section on asbestos in my 10 report on page 18. 11 Q. And are you referring to -- 12 A. Cralley. 13 Q. Is that -- would you spell that for the 14 record? 15 A. C-r-a-l-l-e-y is the first author. 68. 16 Do you want me to pull all these 17 studies and go through here for you? 18 Q. No. 19 Would it be fair to say that in 20 addition to Dr. Longo's testing and the evidence 21 that you've referenced in regard to the -- to the 22 Hopkins chart and the Pier chart that there's 23 evidence in the published literature regarding the 24 presence of asbestos in talcum powder?</p>
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<p>1 Dr. Longo on the methodology that's appropriate for 2 testing Johnson's Baby Powder and Shower to Shower 3 for the presence of fibrous talc? 4 MR. JAMES: Object to the form. 5 A. I would. 6 Q. (BY MS. O'DELL) Is there other evidence 7 that you relied on in considering the question of -- 8 of whether there is asbestos present in Johnson's 9 Baby Powder and Shower to Shower? 10 A. Yes. 11 Q. And -- and what is that evidence? 12 A. Blount found asbestos in Johnson & 13 Johnson's Baby Powder. Her report is in 1991. Her 14 deposition specified that it wasn't just any talcum 15 powder; it was Johnson & Johnson's. 16 Exhibits formerly known as 28, but now 17 known as -- no. Are you kidding? It's 28 again -- 18 showed tremolite, actinolite, and chrysotile -- 19 chryso- -- in Shower to Shower. 20 Do you want me to go through every one 21 of them, or just -- 22 Q. Not every one, but -- 23 A. Okay. But Johnson & Johnson sent -- some 24 Johnson & Johnson samples had identifiable asbestos</p>	<p>1 A. Yes. 2 MR. JAMES: Object to form. 3 Q. (BY MS. O'DELL) You were also asked 4 earlier today about your review of the literature 5 regarding the causal connection between exposure to 6 asbestos and ovarian cancer. 7 Do you recall those questions? 8 A. I do recall those questions. 9 Q. Was your review of the asbestos and 10 ovarian cancer literature comprehensive? 11 A. To the best of my ability. 12 Q. And you spoke earlier about the IARC 13 monogram regarding asbestos and fibrous talc or a 14 talcum asbestiform habit 100C -- you called that? 15 A. Yes. 16 Q. Do you -- 17 MR. JAMES: Objection; form. 18 Sorry, Leigh. 19 MS. O'DELL: Excuse me. 20 Q. (BY MS. O'DELL) Did you review all of the 21 monograph? Let me start there. 22 A. Yes. 23 Q. Did you review all of the articles that 24 are referenced in IARC's comprehensive review of</p>

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<p>1 asbestos?</p> <p>2 A. I read them.</p> <p>3 Q. Did --</p> <p>4 A. And other studies that have come out</p> <p>5 subsequent to IARC.</p> <p>6 Q. Did you attempt to review all the relevant</p> <p>7 literature regarding asbestos and ovarian cancer?</p> <p>8 A. I did.</p> <p>9 Q. Is that literature included on the</p> <p>10 materials considered list that I think is Exhibit C</p> <p>11 of your expert report?</p> <p>12 A. I believe all those references are in</p> <p>13 there.</p> <p>14 Q. Has IARC concluded that fibrous talc or</p> <p>15 talc in an asbestiform habit is a known human</p> <p>16 carcinogen?</p> <p>17 MR. JAMES: Object to form.</p> <p>18 A. Yes.</p> <p>19 Q. (BY MS. O'DELL) Now, I asked you just a</p> <p>20 moment ago about Exhibit C, the materials considered</p> <p>21 list, the -- the bigger list of literature that's --</p> <p>22 A. This (indicating)?</p> <p>23 Q. Yes -- included in your report.</p> <p>24 And did you review the materials that</p>	<p>1 "While there exists."</p> <p>2 Do you see that?</p> <p>3 A. Yes, I do.</p> <p>4 Q. And I think you and counsel for Johnson &</p> <p>5 Johnson discussed this a little earlier. It says,</p> <p>6 "The potential for particulates to migrate from the</p> <p>7 perineum and vagina through the peritoneal cavity is</p> <p>8 indisputable."</p> <p>9 Did I read that correctly?</p> <p>10 A. You did.</p> <p>11 Q. Is that your opinion?</p> <p>12 A. Absolutely.</p> <p>13 Q. And counsel for Johnson & Johnson</p> <p>14 suggested that that statement in this letter that's</p> <p>15 written by the FDA did not apply to talc and talc</p> <p>16 migrating through the upper genital tract.</p> <p>17 Do you recall that?</p> <p>18 MR. JAMES: Object to form and object</p> <p>19 to the mischaracterization.</p> <p>20 A. I recall that.</p> <p>21 MS. O'DELL: It was not a</p> <p>22 mischaracterization.</p> <p>23 Q. (BY MS. O'DELL) What does the next</p> <p>24 sentence say regarding the migration of perineal</p>
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<p>1 are listed on Exhibit C?</p> <p>2 A. I can't promise you that I've read every</p> <p>3 single word on every single study, but I have read</p> <p>4 the vast majority of them.</p> <p>5 Q. Let me --</p> <p>6 A. Greater than 90 percent.</p> <p>7 Q. Okay. Let me switch gears for a moment.</p> <p>8 You were asked a series of questions today about the</p> <p>9 FDA's response to the civil service petition. That</p> <p>10 was one topic.</p> <p>11 Do you recall that?</p> <p>12 A. Yes.</p> <p>13 Q. If you don't mind finding that and pulling</p> <p>14 it out. I think it's right here. It was Exhibit 8.</p> <p>15 A. Yes.</p> <p>16 Q. Do you recall that?</p> <p>17 A. Yes.</p> <p>18 Q. And if you will turn to page 5 of</p> <p>19 Exhibit 8. Just let me know --</p> <p>20 A. This is the FEC letter.</p> <p>21 Q. Yes.</p> <p>22 A. Yes.</p> <p>23 Q. And so if you'll look about a little more</p> <p>24 than halfway down the page, the paragraph beginning</p>	<p>1 talc?</p> <p>2 A. I was just getting ready to say it's the</p> <p>3 very next statement that they said: (Paraphrasing.)</p> <p>4 It is, therefore, plausible that perineal talc --</p> <p>5 other -- any -- they say (other particulate) can</p> <p>6 reach the endometrial cavity, fallopian tubes,</p> <p>7 ovaries, and peritoneum and may elicit a foreign</p> <p>8 body reaction, inflammatory response, but in some</p> <p>9 exposed women may progress to epithelial cancers.</p> <p>10 Q. And in terms of -- of -- of migration, let</p> <p>11 me also ask you -- just keep that in front of you,</p> <p>12 but I'm gonna pull out what's marked as Exhibit 19,</p> <p>13 the Langseth paper. If you see it, maybe you can</p> <p>14 help me.</p> <p>15 A. Yeah. I told you they're all messed up.</p> <p>16 Q. They -- they are.</p> <p>17 A. Here it is.</p> <p>18 Q. Okay. Great.</p> <p>19 And the -- in reference to Exhibit 19,</p> <p>20 earlier, counsel for J&J suggested that the -- the</p> <p>21 IARC Working Group authored this paper.</p> <p>22 Do you recall that?</p> <p>23 A. I remember he -- this is from the Cancer</p> <p>24 Registry of Norway and Harvard and Montreal and</p>

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<p>1 Stockholm and Finland.</p> <p>2 Q. So this is not an official publication</p> <p>3 of -- of IARC. Fair?</p> <p>4 A. No, it is not.</p> <p>5 Q. And if you'll -- but the authors in this</p> <p>6 study, if you'll . . .</p> <p>7 A. Yeah. I see here where they mention the</p> <p>8 working group.</p> <p>9 Q. Yes. And, in fact, the authors of the --</p> <p>10 of the study, to be fair, are part of the working</p> <p>11 group. Is that . . .</p> <p>12 A. Correct.</p> <p>13 Q. And if you'll look at page 1 of Exhibit 19</p> <p>14 and if you'll -- the left-hand column, the -- it's</p> <p>15 the next to the last paragraph toward the end of the</p> <p>16 page, does the authors of the Langseth conclude that</p> <p>17 talc particles can migrate to the vagina to the</p> <p>18 peritoneal cavity and ovaries?</p> <p>19 A. They document asbestos fibers -- well,</p> <p>20 first they say: (Paraphrasing.) It's known that</p> <p>21 particles and fibres that enter the body can migrate</p> <p>22 to distant organs. Asbestos fibres that are found</p> <p>23 in the ovaries exposed to asbestos, analogously</p> <p>24 following perineal application, talc part--</p>	<p>1 the studies, I will cite S-j-ö-r-s-e-n, et al., Egli</p> <p>2 and Newton, et al., Hunes, Zerm-- a Greek study</p> <p>3 with the e-r.</p> <p>4 Q. Why don't you spell it for us?</p> <p>5 A. Why don't I look at my bibliography. It's</p> <p>6 gotta be the last one --</p> <p>7 THE VIDEOGRAPHER: We need to</p> <p>8 change --</p> <p>9 A. -- if they're in alphabetical order.</p> <p>10 THE VIDEOGRAPHER: -- the disk, like</p> <p>11 now, so if we can go off the record.</p> <p>12 MS. O'DELL: I'm sorry. I didn't hear</p> <p>13 you.</p> <p>14 THE VIDEOGRAPHER: The disk, I need to</p> <p>15 change it out. It finished a little earlier, so let</p> <p>16 me swap it out.</p> <p>17 MS. O'DELL: Can she finish her answer</p> <p>18 or . . .</p> <p>19 THE VIDEOGRAPHER: No because I have</p> <p>20 to switch it out. Sorry.</p> <p>21 (A recess was taken from 7:56 p.m.</p> <p>22 to 8:00 p.m.)</p> <p>23 THE VIDEOGRAPHER: This marks the</p> <p>24 beginning of disk 5. Back on the record. The time</p>
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<p>1 particles can migrate from the vagina to the</p> <p>2 peritoneal cavity and ovaries. A majority of women</p> <p>3 experience retrograde menstruation. And this</p> <p>4 also -- this suggests a mechanism by which talc</p> <p>5 particles can travel through the female reproductive</p> <p>6 tract to the ovaries.</p> <p>7 Q. Is this part of the evidence that you</p> <p>8 relied on in supporting your opinion that talc</p> <p>9 particles applied to the -- to the perineal area can</p> <p>10 migrate to the upper genital tract, including the</p> <p>11 ovaries?</p> <p>12 A. Yes, and the research that these</p> <p>13 statements are based on.</p> <p>14 Q. Yes. And what other evidence do you rely</p> <p>15 on to support your opinion that talc can migrate to</p> <p>16 the ovaries?</p> <p>17 A. I have a section called "Migration" in --</p> <p>18 in my report. While I'm finding it, I'll start with</p> <p>19 the multiple human studies, which I weight more</p> <p>20 heavily -- or influenced me more strongly than</p> <p>21 studies in rodents that have shown particulate</p> <p>22 matter passing from the perineum into the peritoneal</p> <p>23 cavity.</p> <p>24 And -- and as I'm looking through all</p>	<p>1 is 8:00 p.m.</p> <p>2 Q. (BY MS. O'DELL) Dr. Smith, before we had</p> <p>3 to change the videographic tape, I had asked you</p> <p>4 what evidence you rely on to support your opinion</p> <p>5 that talc migrates from the perineum to the ovaries,</p> <p>6 and you were walking us through that.</p> <p>7 So why don't you just take a step back</p> <p>8 and --</p> <p>9 A. Did you get the reading from Langseth on</p> <p>10 the tape?</p> <p>11 Q. I think we got that. Assume we got that</p> <p>12 and then go from there.</p> <p>13 A. Okay. So there are a number of papers</p> <p>14 that look at migration of particulates.</p> <p>15 First, talc was identified deeply</p> <p>16 embedded in the ovaries, 1971 by Henderson.</p> <p>17 Egli and Newton had flushed carbon</p> <p>18 particles from the vaginal vault and that came out</p> <p>19 in the peritoneal cavity. These patients generally</p> <p>20 who were coming to abdominal surgery in some period</p> <p>21 of time, same day, next day, up to four days in</p> <p>22 these studies.</p> <p>23 And so this -- particulates would be</p> <p>24 placed in the vagina, not propelled, but placed in</p>

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<p>1 the vagina, and then the peritoneal cavity was</p> <p>2 entered, washed to see if those particulates are</p> <p>3 there. So Egli and Newton did carbon particles.</p> <p>4 Sjösten did glove powder.</p> <p>5 There are studies from K-u-n-z, looks</p> <p>6 at micronized albumin particles placed in the vagina</p> <p>7 that are transported.</p> <p>8 There's a recent study by Zermanitokis</p> <p>9 [sic] -- you have the spelling -- that looks at</p> <p>10 tubal transport. And the great thing about that</p> <p>11 study is that you can pass particles and demonstrate</p> <p>12 them by ultrasonography and actually live-action</p> <p>13 watch them go through the tube and study tubal</p> <p>14 motal- -- motility as they go towards the dominant</p> <p>15 ovarian part -- particle.</p> <p>16 All these particles, a wide range of</p> <p>17 studies from very small particles to larger</p> <p>18 particles, the majority of them were approximating</p> <p>19 sperm size, which is, in length, 5 microns.</p> <p>20 So I looked at all these studies and</p> <p>21 conclude that migration is real. There's -- a</p> <p>22 female genital tract is the path to the peritoneal</p> <p>23 cavity.</p> <p>24 Dr. Woodruff gave his presidential</p>	<p>1 cavity, particulates of similar size, larger and</p> <p>2 smaller, have been demonstrated to do that. These</p> <p>3 are not motile; they're not flagellated. A particle</p> <p>4 can go from outside to inside.</p> <p>5 There's no reason why talc shouldn't</p> <p>6 do it, and certainly we've seen talc deeply embedded</p> <p>7 in the ovary suggesting that that's how it got</p> <p>8 there.</p> <p>9 Q. (BY MS. O'DELL) In fact, the evidence is</p> <p>10 so strong the FDA has concluded it's indisputable.</p> <p>11 MR. KLATT: Objection to form.</p> <p>12 Q. (BY MS. O'DELL) Has the FDA concluded</p> <p>13 that it's indisputable that talc can migrate from</p> <p>14 the perineum to the upper genital tract?</p> <p>15 MR. JAMES: Object to form.</p> <p>16 Mischaracterizes the letter.</p> <p>17 MR. KLATT: Misstates the testimony.</p> <p>18 A. I think indisputable is the word that --</p> <p>19 that Dr. Musser, deputy director for scientific</p> <p>20 operations, Center for Food Safety and Applied</p> <p>21 Nutrition, used in his letter to Dr. Epstein.</p> <p>22 "The potential for particulates to</p> <p>23 migrate from the peritoneum [sic] and vagina to the</p> <p>24 peritoneal cavity is indisputable." That's the word</p>
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<p>1 address in 1979 talking about ovarian cancer</p> <p>2 resulting from unknown agents transversing the</p> <p>3 vagina, cervix, endometrium, fallopian tube, into</p> <p>4 the peritoneal cavity, surrounding the uterus and</p> <p>5 inciting ovarian cancer.</p> <p>6 I think we're seeing in in vitro</p> <p>7 studies in the lab, as we study inflammation in</p> <p>8 ovarian cancers, we are seeing -- able to generate</p> <p>9 these studies at a molecular level without hurting</p> <p>10 women, but seeing what the effect of exposure to</p> <p>11 talc is on normal epithelial cells, fallopian</p> <p>12 tubes . . .</p> <p>13 Q. Before you get so far into that -- I'm</p> <p>14 gonna ask you about that in just a moment, but let</p> <p>15 me just ask one question before we leave migration.</p> <p>16 It is the ability of talc applied to the perineum to</p> <p>17 migrate through the -- the genital tract to the</p> <p>18 ovaries.</p> <p>19 Is that a hypothesis?</p> <p>20 MR. JAMES: Object to form.</p> <p>21 A. I think it is something that happens. It</p> <p>22 is -- it has been -- while I have not seen a paper</p> <p>23 that demonstrates talc, per se, has been transported</p> <p>24 through the internal genitalia and to peritoneal</p>	<p>1 he used.</p> <p>2 Q. (BY MS. O'DELL) Okay. Let me ask you to</p> <p>3 go back to the topic you were -- had moved on to. I</p> <p>4 just wanted to finish migration, and you were</p> <p>5 talking about inflammation.</p> <p>6 A. Yes.</p> <p>7 Q. What evidence is there that talcum powder</p> <p>8 causes inflammation?</p> <p>9 A. Well, when you go into -- when you go into</p> <p>10 the laboratory, you don't have to use the broad</p> <p>11 brush of inflammation. You can look at specific</p> <p>12 biochemical production or responses of molecules</p> <p>13 involved in that inflammatory cascade.</p> <p>14 So Kahn showed that nanopart --</p> <p>15 nanotalc particles stabilized TNF-alpha, which is a</p> <p>16 tumor necrosis factor alpha in human macrophages,</p> <p>17 which is one of the steps in the inflammatory</p> <p>18 cascade.</p> <p>19 In fact, he found that the smaller --</p> <p>20 the smaller of the pol- -- particle, the more the</p> <p>21 production of unstabilization of TNF-alpha as</p> <p>22 opposed to larger pol- -- particles.</p> <p>23 Saed has, through the 2000s, looked at</p> <p>24 ovarian cancer cell lines upregulation of</p>

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<p>1 anti-inflammatory and pro-inflammatory enzymes in</p> <p>2 products. And then -- and he's written -- has a new</p> <p>3 book chapter on it with Nicole Fletcher and all the</p> <p>4 people in his lab.</p> <p>5 And then has recently had a paper</p> <p>6 accepted that looks at the response of controls,</p> <p>7 normal ovarian epithelium, fallopian tube</p> <p>8 epithelium, normal, and three different cell lines</p> <p>9 of ovarian epithelial cancer cells in response to</p> <p>10 three different levels of -- of talc.</p> <p>11 And looked at the production of</p> <p>12 pro-inflammatory enzymes, decrease in</p> <p>13 anti-inflammatory enzymes, increase in cell</p> <p>14 proliferation, decrease in apoptosis, and induction</p> <p>15 of single-nucleotide polymorphisms that are</p> <p>16 associated with carcinogenesis.</p> <p>17 Before we had one paper where a</p> <p>18 researcher named Buzard had taken a memorialized</p> <p>19 normal ovarian cell line, exposed it to 5 milligrams</p> <p>20 per -- micrograms, I'm sorry, per milliliter to --</p> <p>21 of talc, talcum powder, and this is scientific grade</p> <p>22 talc, this was not Johnson's Baby Powder -- and</p> <p>23 induced malignancy, as measured by the criteria of</p> <p>24 lack of adherence in semi-solid auger, which is a</p>	<p>1 at -- at exposed normal mesothelial cells and then</p> <p>2 normal ovarian epithelial ovarian cells to both</p> <p>3 asbestos and nonfibrous talc and found induction of</p> <p>4 pro-inflammatory genes have -- with exposure to</p> <p>5 these 2 carcinogens.</p> <p>6 Here's another Saed.</p> <p>7 I think that covers it pretty much.</p> <p>8 Q. (BY MS. O'DELL) You asked earlier today</p> <p>9 about I think the question was -- well, let me just</p> <p>10 ask it this way: Is there a regulatory body that</p> <p>11 shares your view that talcum powder can cause</p> <p>12 ovarian cancer?</p> <p>13 MR. JAMES: Object to form.</p> <p>14 A. The Canadian EPA, CEPA, came out with</p> <p>15 Health Canada, which is publishing under -- is in</p> <p>16 it's discussion period where they cite the</p> <p>17 literature and base -- and their conclusion is that</p> <p>18 talcum powders -- I can paraphrase it.</p> <p>19 Do you have a copy that I can read?</p> <p>20 But they say that talcum powder is a</p> <p>21 significant public health risk to women from</p> <p>22 perineal exposure, but I -- off the top of my head,</p> <p>23 I can't remember their conclusion to read to you.</p> <p>24 Q. (BY MS. O'DELL) You also asked some</p>
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<p>1 standard of maligat -- malignancy and; yet, she</p> <p>2 didn't do anything with it. She didn't</p> <p>3 cytologically evaluate it. She didn't -- she just</p> <p>4 said, "I made it a malignant."</p> <p>5 So we have an example of malignant</p> <p>6 transformation that is documented by a pretty</p> <p>7 reliable basis if you query -- I can't say that, but</p> <p>8 she really didn't go far with it.</p> <p>9 Saed is starting to really break it</p> <p>10 down, and he had a really remarkable dose response</p> <p>11 in vitro to 5, 50, or 100-microgram per mil talc in</p> <p>12 his changes.</p> <p>13 MR. KLATT: Object to the narrative</p> <p>14 answer.</p> <p>15 Q. (BY MS. O'DELL) Has -- in addition to the</p> <p>16 Buzard paper you mentioned and Dr. Saed's work over</p> <p>17 the last decade, have there been others that looked</p> <p>18 at talc and -- in cell cult -- culture and found</p> <p>19 evidence that talc produced inflammation?</p> <p>20 MR. KLATT: Objection;</p> <p>21 mischaracterization.</p> <p>22 MR. JAMES: Join.</p> <p>23 A. Oh, Shulka. I forgot that study. That's</p> <p>24 a big one. Shulka -- Shulka, S-h-u-l-k-a, looked</p>	<p>1 questions today about the -- about ACOG.</p> <p>2 Do you remember those questions about</p> <p>3 ACOG and the societies --</p> <p>4 A. Um-hum.</p> <p>5 Q. -- of which you're a member?</p> <p>6 A. Um-hum.</p> <p>7 Q. What's referred to as "The Green Journal,"</p> <p>8 I believe?</p> <p>9 A. It's obstetrics and gynecology. It's the</p> <p>10 journal of ACOG.</p> <p>11 Q. And has -- recently have papers been</p> <p>12 published regarding ovarian cancer and its -- excuse</p> <p>13 me, and talcum powder causing -- well, let me strike</p> <p>14 that and start over.</p> <p>15 Have recently, in The Green Journal,</p> <p>16 there have been a publication dealing with talcum</p> <p>17 powder products causing a significant increase in</p> <p>18 ovarian cancer?</p> <p>19 A. I think what --</p> <p>20 MR. JAMES: Object to form.</p> <p>21 A. I think what you're referring to is, you</p> <p>22 know, the end of every year they -- they review a</p> <p>23 lot of topics and it's, you know, top five articles</p> <p>24 in preeclampsia and top five articles in</p>

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<p>1 endometriosis and there's Jason Wright wrote the top 2 five articles in ovarian cancer. 3 And I think -- I don't remember 4 whether they were ranked, but I know Number 4 on the 5 list was the Penninkilampi study, but that's -- I 6 don't know who decides that. I don't remember 7 reading how that was decided, but I know Jason 8 Wright wrote it. 9 Q. (BY MS. O'DELL) And is that something 10 that suggests that the -- the causal connection 11 between the use of genital talc and ovarian cancer 12 is becoming more well-known in the medical 13 community? 14 MR. JAMES: Objection to form. 15 MR. KLATT: Objection; leading. 16 Speculation. 17 A. I think both Canada Health and the flurry 18 of two publications in '18. There are other studies 19 that are ongoing and in various stage of analysis, 20 preparation, proof, shows that we're getting a lot 21 more interest in talc and its relationship to 22 ovarian cancer. And there is increasing concern in 23 the -- all over the world, but the studies I know of 24 are largely in the United States and Canada.</p>	<p>1 present in talcum powder in certain periods. 2 MR. JAMES: Object to form. 3 Q. (BY MS. O'DELL) Do you rely on IARC's 4 comprehensive review of the literature regarding the 5 carcinogenicity of chromium? 6 A. Yes. 7 Q. Did you review IARC's analysis of -- 8 A. Yes. I read that. That is the way I made 9 my assessment of whether or not they are toxic. 10 Q. And did you -- in the same way, did you 11 review IARC's Monograph in relation to nickel? 12 A. Yes. 13 Q. And do you rely on IARC's comprehensive 14 review of both the epidemiological literature, the 15 animal studies, and other evidence regarding the 16 carcinogenicity of nickel? 17 A. Yes. 18 Q. And -- 19 A. I didn't individually pull every one of 20 their papers. I just read IARC. 21 Q. And you relied on IARC's review of those 22 materials? 23 A. Yes. I have trusted them. If they say 24 nickel is a carcinogen at specific levels, then I</p>
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<p>1 Q. (BY MS. O'DELL) Let me change topics just 2 for a minute. 3 You were asked questions throughout 4 the day, different points about the fragrance 5 chemicals that comprise the fragrance for -- 6 fragrances for Baby Powder and Shower to Shower. 7 Do you recall that? 8 A. I do recall that. 9 Q. Do you -- did you -- excuse me. 10 Do you defer to Dr. Crowley on his 11 examination of the specific characteristics of those 12 fragrance chemicals? 13 A. I was getting ready to say I defer -- 14 before you could finish your sentence. I defer to 15 Dr. Crowley on everything about fragrances. 16 Q. And do you -- I mean, your -- do you rely 17 on his opinions regarding the inflammatory, toxic, 18 and potential carcinogenic effect of the chemicals 19 in the fragrances for Baby Powder and Shower to 20 Shower? 21 A. Yes. I don't know anything about those 22 substances. 23 Q. You were also asked questions about the 24 heavy metals that had been demonstrated to be</p>	<p>1 have no intention of pulling all those papers and 2 studying them myself. 3 Q. And would the same be true of Cobalt? 4 A. Yes. 5 Q. I want to show you what I'm going to mark 6 as Exhibit 30, and this is a copy of the Berge 7 paper. It's the most up-to-date copy. 8 (Deposition Exhibit 30 marked for 9 identification.) 10 Q. (BY MS. O'DELL) So I've handed you 11 Exhibit 30. It's a copy -- 12 A. Um-hum. 13 Q. It's the most up-to-date copy of the Berge 14 paper. We had discussions today at different times. 15 I think that we had different Berge publications, 16 and so I want to mark the one that has been 17 published most recently. 18 A. Okay. This is -- we have previously 19 marked the e-Pub. This is the print. 20 Q. All right. And if you'll -- I have just 21 one question. 22 You were asked today or the suggestion 23 was made to you today that in Berge the study did 24 not demonstrate a dose response.</p>

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<p>1 Do you recall those questions?</p> <p>2 A. Yes.</p> <p>3 Q. And if you'll take a look at the next to</p> <p>4 last sentence of the abstract --</p> <p>5 A. Yes.</p> <p>6 Q. -- of Berge.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And, in fact, did Berge demonstrate a -- a</p> <p>10 dose response?</p> <p>11 A. He says it's a -- which appears to be</p> <p>12 limited, that -- okay.</p> <p>13 "Statistically significant association</p> <p>14 between general use of talc in ovarian cancer, which</p> <p>15 appears to be limited to serous carcinoma was</p> <p>16 suggestion of dose-response."</p> <p>17 Q. The . . .</p> <p>18 A. And he has a table of the duration</p> <p>19 frequency.</p> <p>20 Q. And is that table supportive of the fact</p> <p>21 that the studies show the -- a dose response or at</p> <p>22 least the trending of a dose response?</p> <p>23 A. Their -- the --</p> <p>24 MR. KLATT: Objection.</p>	<p>1 Q. Yeah. Have you been asked to look at any</p> <p>2 individual patients in order to render what's</p> <p>3 ter- -- referred to as a case specific opinion?</p> <p>4 A. No.</p> <p>5 Q. And is it -- would you be willing to do</p> <p>6 that if asked?</p> <p>7 A. No. I haven't thought about it.</p> <p>8 Q. Okay.</p> <p>9 A. I'd like to think about it before I accept</p> <p>10 any more responsibility.</p> <p>11 Q. Yeah.</p> <p>12 Does that in any way --</p> <p>13 A. At this hour -- at this hour of the</p> <p>14 deposition.</p> <p>15 Q. Does that in any way undermine or change</p> <p>16 your opinion that talcum powder products, Baby</p> <p>17 Powder and Shower to Shower cause ovarian cancer?</p> <p>18 A. No.</p> <p>19 MR. KLATT: Objection; leading.</p> <p>20 A. It doesn't change my mind.</p> <p>21 Q. (BY MS. O'DELL) And is that opinion based</p> <p>22 on your review of the totality of the literature as</p> <p>23 you've described in your report and in the materials</p> <p>24 that are cited not only within the report but also</p>
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<p>1 MR. JAMES: Object to form.</p> <p>2 A. His results -- his relative risks are 1.16</p> <p>3 for a duration. 1.05 for frequency. They are</p> <p>4 statistically significant with 1.07 to 1.26 for a</p> <p>5 duration. 1.04 to 1.07 confidence intervals. But</p> <p>6 his number of risk estimates are small, 12 and 7.</p> <p>7 Q. Okay. You . . .</p> <p>8 MR. JAMES: Leigh, if you're done with</p> <p>9 Exhibit 30, may I have a look at it, please.</p> <p>10 MS. O'DELL: Sure.</p> <p>11 A. I think -- from what I've seen, it looks</p> <p>12 pretty much the same.</p> <p>13 MR. JAMES: Thank you.</p> <p>14 Q. (BY MS. O'DELL) Let me ask you to --</p> <p>15 A. Except that chart is -- oh, yeah. It's in</p> <p>16 the other one. Down here. I think they're the same</p> <p>17 thing.</p> <p>18 Go ahead.</p> <p>19 Q. Doctor, you were asked a series of</p> <p>20 questions about individual patients and whether</p> <p>21 talcum powder can cause ovarian cancer in an</p> <p>22 individual patient.</p> <p>23 Do you remember those questions?</p> <p>24 A. Generally.</p>	<p>1 Exhibit C?</p> <p>2 MR. JAMES: Object to form.</p> <p>3 A. Yes. I -- I find the epidemiologic data</p> <p>4 and the consistency is so significant, and then the</p> <p>5 biochemical stuff, the skin would be coming out like</p> <p>6 gangbusters. Speaks to plausibility,</p> <p>7 experimentation, mechanism, and that's just very</p> <p>8 compelling.</p> <p>9 Q. (BY MS. O'DELL) And in terms of the</p> <p>10 opinions that you've expressed in your report, are</p> <p>11 those opinions based on the published literature and</p> <p>12 other data that you have referenced and relied on in</p> <p>13 your report?</p> <p>14 A. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. All of that has been published and</p> <p>17 peer-reviewed.</p> <p>18 Q. Right.</p> <p>19 So the degree that there's new data</p> <p>20 coming out, you're not relying on sort of the hope</p> <p>21 of new data in the future to reach your opinions?</p> <p>22 A. No, I think I'm willing to commit and make</p> <p>23 my opinion. I -- I feel very excited that we</p> <p>24 have -- we will have opportunities as we understand</p>

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<p>1 this process, the therapeutic interventions at some 2 time. 3 Q. You were asked questions earlier today 4 about what you had done prior to litigation and what 5 you've done post litigation in terms of informing 6 your opinions in this case. 7 Did you know that talc and asbestos 8 are inflammatory prior to becoming involved in the 9 litigation? 10 A. Yes. 11 MR. JAMES: Object to form. 12 Q. (BY MS. O'DELL) Prior to the litigation, 13 did you know, based on your understanding of the 14 medical and scientific literature, that inflammation 15 creates a pro-carcinogenesis -- excuse me, 16 carcinogenic environment? 17 MR. JAMES: Object to form. 18 A. Yes. 19 Q. (BY MS. O'DELL) Prior to the litigation, 20 did you know, based on your review of the scientific 21 and medical literature, that inflammation was a 22 mechanism for epithelial ovarian cancer development 23 and progression? 24 MR. JAMES: Object to form.</p>	<p>1 Q. Are your opinions in this case outlined in 2 your deposition today as well as the report that 3 you've provided in this case? 4 A. Yes. 5 Q. And every time today when you have 6 referred to talcum powder products, have you been 7 referring to Johnson's Baby Powder and Shower to 8 Shower? 9 MR. JAMES: Object to form. 10 A. Except when specified otherwise. 11 Q. (BY MS. O'DELL) Okay. And then last 12 question. You were asked a series of -- or maybe 13 the last question. 14 You were asked a -- 15 A. I got so excited. 16 Q. We've got a series of questions about what 17 you tell your patients, and you -- 18 A. Um-hum. 19 Q. -- testified that you do not tell your 20 patients presently about the increased risk of 21 ovarian cancer with perineal talc use. 22 Do you recall that? 23 A. I do. 24 Q. Do you treat patients with ovarian cancer</p>
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<p>1 A. Certainly the recent data is more 2 compelling, that has been postulated, and various 3 little snippets of data like some of Saed's stuff 4 and enzyme induction, stuff like that, has been 5 leading there. It's been growing. 6 Q. (BY MS. O'DELL) But you were aware of 7 that -- 8 A. Yeah, prior to -- 9 Q. -- in -- excuse me. You were aware of -- 10 A. -- prior to January of 2017. 11 Q. Okay. 12 MR. JAMES: Object to the form. 13 Q. (BY MS. O'DELL) Prior to litigation, did 14 you know that particles such as talc and asbestos 15 could migrate or be transported to the fallopian 16 tube and ovary from the perineum? 17 MR. JAMES: Object to the form. 18 A. Oh, yes. 19 Q. (BY MS. O'DELL) Prior to the litigation, 20 were you aware of scientific data and medical 21 literature demonstrating that talc as well as 22 asbestos could be exposed to the body through 23 inhalation? 24 A. Oh, yes.</p>	<p>1 at this time? 2 A. At the end of their life. 3 Q. Why do you not tell them about talc as 4 a -- as a cause of ovarian cancer? 5 A. It's too late. 6 Q. Why? 7 A. They're dying. 8 Q. And -- 9 A. There's nothing -- they failed all 10 therapy. If there was adequate therapy -- 11 Q. And it would be -- 12 A. -- to reverse it, then they wouldn't be my 13 patient. 14 Q. And it would be insensitive and wrong to 15 counsel a patient at that junction in their life -- 16 A. Um-hum. 17 Q. -- about a risk factor that they will have 18 no effect on their -- 19 A. They can't do anything about it. I don't 20 want to induce guilt. The horse is out of the barn. 21 They need pain control. 22 They need nausea control. 23 They need love, support. They need 24 their family, you know, their priest or spiritual</p>

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<p>1 leader. They need a lot of care, but they don't</p> <p>2 need to be told "This happened because you used</p> <p>3 powder" or, "Boy, if you hadn't" -- I don't know.</p> <p>4 That'd be just dumb.</p> <p>5 MS. O'DELL: I don't have any further</p> <p>6 questions, Dr. Smith. Thank you.</p> <p>7 I'm sure these -- one of these</p> <p>8 gentlemen will have some questions.</p> <p>9 MR. JAMES: We will.</p> <p>10 Are we taking five, Mike?</p> <p>11 MR. KLATT: Five minutes.</p> <p>12 MR. JAMES: Okay.</p> <p>13 MR. KLATT: We'll just need a time</p> <p>14 from the videographer.</p> <p>15 MR. JAMES: Okay.</p> <p>16 THE VIDEOGRAPHER: So let's -- are we</p> <p>17 going off?</p> <p>18 MR. KLATT: We don't need to go off.</p> <p>19 Just what's the time?</p> <p>20 THE VIDEOGRAPHER: 32 plus 16 prior,</p> <p>21 so it should be 48.</p> <p>22 MS. O'DELL: So I'm not sure what</p> <p>23 the -- I'm not sure what the calculation's being</p> <p>24 made.</p>	<p>1 powder.</p> <p>2 Q. (BY MR. JAMES) Are you aware of any</p> <p>3 scientific literature or studies that address</p> <p>4 whether the chemicals and the fragrances of talc</p> <p>5 powder cause ovarian cancer?</p> <p>6 A. I do not. I defer to Dr. Crowley.</p> <p>7 Q. Did you consider the body of literature,</p> <p>8 looking at whether talc is associated with other</p> <p>9 types of gynecological cancers?</p> <p>10 A. I did not --</p> <p>11 MS. O'DELL: Object to the form.</p> <p>12 A. I did not even search endometrial cancer,</p> <p>13 cervical cancer, vulvar cancer.</p> <p>14 Q. (BY MR. JAMES) Do you believe that body</p> <p>15 of literature would be relevant to the opinions</p> <p>16 you're offering today?</p> <p>17 A. It would be confirmatory, were it to</p> <p>18 exist.</p> <p>19 Q. Confirm --</p> <p>20 A. I don't know if it exists.</p> <p>21 Q. Sorry.</p> <p>22 Confirmatory to the extent that it</p> <p>23 revealed an association, correct?</p> <p>24 MS. O'DELL: Object to the form.</p>
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<p>1 MR. SILVER: Let's go off the record</p> <p>2 so we can figure out the calculation because I think</p> <p>3 it's different that he . . .</p> <p>4 THE VIDEOGRAPHER: Going off the</p> <p>5 record. The time is 8:32 p.m.</p> <p>6 (A recess was taken from 8:32 p.m.</p> <p>7 to 8:43 p.m.)</p> <p>8 THE VIDEOGRAPHER: Back on the record.</p> <p>9 The time is 8:43 p.m.</p> <p>10 FURTHER EXAMINATION</p> <p>11 BY MR. JAMES:</p> <p>12 Q. Dr. Smith, good evening.</p> <p>13 A. Hi.</p> <p>14 Q. I have a few more questions for you.</p> <p>15 Okay?</p> <p>16 A. Okey-doke.</p> <p>17 Q. Are you aware of any studies or literature</p> <p>18 showing that the presence of heavy metals in</p> <p>19 cosmetic talc powders increases the risk of ovarian</p> <p>20 cancer?</p> <p>21 MS. O'DELL: Object to the form.</p> <p>22 A. I know that IARC calls those Class 1 --</p> <p>23 two of them Class 1 carcinogens. I don't know how</p> <p>24 much they influence the carcinogenicity of talcum</p>	<p>1 A. To the extent that it revealed an</p> <p>2 association if such literature exists.</p> <p>3 Q. (BY MR. JAMES) If the literature, looking</p> <p>4 at the association between talc and other</p> <p>5 gynecological cancers, did not support an</p> <p>6 association, would that impact the opinions you're</p> <p>7 offering today?</p> <p>8 MS. O'DELL: Object to the form.</p> <p>9 A. Probably not.</p> <p>10 Q. (BY MR. JAMES) Why is that?</p> <p>11 A. Because -- because of the lethality of</p> <p>12 ovarian cancer, we do much better curing endometrial</p> <p>13 and cervix cancer. Ovarian cancer is a real killer.</p> <p>14 Not that I want anybody to get cancer.</p> <p>15 Q. And I'm not sure that I understood your</p> <p>16 answer.</p> <p>17 A. Okay.</p> <p>18 Q. So -- and it may -- and it's probably on</p> <p>19 my part.</p> <p>20 But you said because of the?</p> <p>21 A. Lethality. Lethal.</p> <p>22 Q. Lethality? Lethality. Okay.</p> <p>23 A. Yeah, of ovarian cancer. It is unusual</p> <p>24 to -- it's unusual to find ovarian cancer at an</p>

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<p style="text-align: right;">Page 346</p> <p>1 early stage. It is unusual to cure ovarian cancer. 2 We have a pretty darn good -- well, it could be 3 better. We don't cure everybody. But we have a 4 pretty good track record with curing endometrial and 5 cervical cancer. Not that I want anybody to get 6 cancer, but we need to do everything to decrease the 7 incidence of ovarian cancer. 8 Q. If your opinion is that talc causes 9 ovarian cancer, would you believe that talc would 10 also cause cervical cancer? 11 A. I don't know that information. 12 MS. O'DELL: Objection; form. 13 A. Cervical cancer -- cervical cancer, in 14 all, except extremely rare incidents such as DES 15 exposure, which thank God we've gotten rid of, is -- 16 a component of cervical cancer is human papilloma 17 virus, which is a necessary but insufficient 18 carcinogen. That is, this is your cumulative -- one 19 of your cumulative examples where you've got to have 20 the one of HPV, but then you need another punch. 21 You need another factor. You can't just have HPV to 22 cause cervical cancer. 23 I -- I can't think of any research 24 that -- in influence of talc usage in cervical</p>	<p style="text-align: right;">Page 348</p> <p>1 A. Okay. I haven't found any differences 2 between the two, except the page numbers. 3 Q. And Dr. Smith, if you could just look at 4 that abstract for me on the first page, please. 5 A. Yes. 6 Q. And you see at the bottom of the abstract 7 that -- the sentence that I asked you about earlier, 8 and discussed with you at some length, about the 9 heterogeneity issue. 10 Do you see that? 11 A. Yes. 12 Q. Okay. And you see there that the authors 13 of the Berge paper still conclude on Exhibit 14 Number 30 that a causal interpretation is not 15 warranted, correct? 16 MS. O'DELL: Objection; form. 17 A. It says, "The heterogeneity" -- they 18 didn't say it's not causal. They say the 19 heterogeneity results detract from a causal 20 interpretation, so that lowers the chance that 21 they're willing to make in a causal association. It 22 doesn't strike it out entirely. 23 Q. (BY MR. JAMES) And that language is 24 consistent with the language that we discussed</p>
<p style="text-align: right;">Page 347</p> <p>1 cancer. I don't think I've ever seen that paper. 2 Q. (BY MR. JAMES) Would you expect talc to 3 be associated with uterine cancer? 4 A. I've never seen that paper either. Taking 5 us back to Mr. -- is it Klatt? Menstruation 6 association -- I'm just -- I'm thinking, and I 7 shouldn't be thinking. I should -- I've never seen 8 that paper. 9 Q. Or body of papers, if such a body exists, 10 correct? 11 A. Or if such a body -- 12 MS. O'DELL: Object to the form. 13 A. -- exists. 14 Q. (BY MR. JAMES) You would agree that if 15 talc migrates to the genital tract, that talc would 16 be exposed to tissues and organs along the way, 17 correct? 18 A. Yes. 19 Q. Okay. You discussed with your counsel 20 Exhibit Number 30, which is the most recent version 21 of the Berge paper, correct? 22 A. Yes. I have the -- I have the 24, but I 23 think this is good enough. 24 Q. And I'm gonna hand you back Exhibit 30.</p>	<p style="text-align: right;">Page 349</p> <p>1 earlier today, correct? 2 A. It is. 3 MS. O'DELL: Objection; form. 4 Q. (BY MR. JAMES) During counsel's 5 questions, you made references to literature or 6 studies that I think you characterized as "would be 7 coming out." 8 Is that terminology that I heard 9 correctly? 10 A. Yes. 11 Q. Okay. Are you aware of studies on the 12 talc ovarian cancer hypothesis that are works in 13 progress? 14 A. Yes. 15 Q. Okay. What are those studies? 16 A. Well, there's another epidemiologic study 17 cited in Health Canada by Traher -- Taher, 18 T-a-h-e-r, Mohamed Taher, and a whole bunch of other 19 people. That is another epidemiologic 20 meta-analysis. 21 Q. Are there any other studies that you're 22 aware of that pertain to the issues in this 23 litigation that are works in progress? 24 A. I think people all over are still actively</p>

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<p>1 looking at inflammation in all cancers at various 2 molecular levels. Gosh. Their group's called the 3 Cancer Genome Analysis, that's working on -- 4 continues to work on ovarian cancer. Sambucetti 5 looks on ovarian cancer with BRCA mutations. 6 Looking -- there are new papers coming out all the 7 time on other risk factors. 8 Q. And if I may ask a very precise question 9 in hopes of moving us along. 10 A. Okay. Sorry. 11 Q. That's fine. 12 A. No worries. 13 Q. Are you aware of any other papers that are 14 works in progress that specifically look at the 15 issue of talc and ovarian cancer? 16 A. I have not read -- 17 MS. O'DELL: Besides the one she 18 mentioned? 19 A. Besides the one I mentioned, I have not 20 read any other data or prepublication drafts. 21 MR. JAMES: Okay. That's all the 22 questions I have for now. 23 MR. KLATT: Oh. 24 THE WITNESS: What are we on? 10s?</p>	<p>1 MR. KLATT: Let me do this. 2 Let's just mark this, the full 3 Asbestos Monograph -- 4 THE WITNESS: Okay. 5 MR. KLATT: -- Doctor, instead of some 6 pages. Let's mark it as the next exhibit. 7 THE COURT REPORTER: It should be 31. 8 (Deposition Exhibit 31 marked for 9 identification.) 10 FURTHER EXAMINATION 11 BY MR. KLATT: 12 Q. Doctor, I'm handing you, and just verify 13 it's what you're looking at. But this -- I'm 14 representing to you this is a copy of the 2012 IARC 15 Asbestos Monograph that's referred to your 16 report and also -- 17 A. Exactly. 18 Q. -- referred to in your testimony multiple 19 times today, correct? 20 A. Correct. 21 Q. And if you would, turn to page 256, 22 please. 23 A. (Complied.) Getting close. 24 Q. Are you at page 256?</p>
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<p>1 14, 13. It may be down here. 11, 10. 2 MR. KLATT: Do you -- I don't -- I'm 3 looking for the IR Asbestos Monograph. 4 THE WITNESS: This is not it? 5 MR. KLATT: No, I don't believe so. 6 THE WITNESS: I mean, it's like -- 7 MS. O'DELL: I don't believe we 8 entered that yet. 9 THE WITNESS: It's got -- this is from 10 the IR Monograph, but it is not the -- 11 MR. KLATT: Do you have the entire 12 monograph -- 13 THE WITNESS: Yes, we do. 14 MR. KLATT: -- in one of those books? 15 THE WITNESS: Yes, we do. 16 MR. KLATT: Can you pull it? 17 THE WITNESS: Second IA. 18 MS. O'DELL: Which monograph? 19 THE WITNESS: The -- 20 MR. KLATT: The 2012 Asbestos 21 Monograph. 22 THE WITNESS: MC. It's the second 23 one. It's not that one. It's the second IA. Yep, 24 that's it.</p>	<p>1 A. I am. 2 Q. Of the IARC 2012 Asbestos Monograph? 3 A. I am. 4 Q. I'm looking in the right-hand column, and 5 I think you looked at this language earlier today. 6 The right-hand column, the middle 7 paragraph says, "The IARC Working Group noted that a 8 causal association between exposure to asbestos and 9 cancer of the ovary was clearly established based on 10 five strongly positive cohort mortality studies of 11 women with heavy occupational exposure to asbestos," 12 correct? 13 A. Correct. 14 Q. And then it cites five studies that you've 15 reviewed, correct? 16 A. Right. 17 Q. None of those studies involve the type of 18 asbestos that's alleged to be in Johnson & Johnson's 19 body powder products, correct? 20 MS. O'DELL: Object to the form. 21 A. I'd have to look at them back to look at 22 the types. I -- I'm sorry. I don't remember the 23 details in these studies -- 24 Q. (BY MR. KLATT) If, in fact --</p>

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<p>1 A. -- at the time.</p> <p>2 Q. -- those five studies involve a type of</p> <p>3 asbestos that hasn't been alleged to be in Johnson &</p> <p>4 Johnson's Baby Powder, then you wouldn't be reliant</p> <p>5 on those, correct?</p> <p>6 MS. O'DELL: Object to the form.</p> <p>7 Misstates the record.</p> <p>8 A. These studies are not about Johnson's Baby</p> <p>9 Powder.</p> <p>10 Q. (BY MR. KLATT) Exactly.</p> <p>11 A. These studies are about asbestos.</p> <p>12 Q. Right. And they're not even done in the</p> <p>13 U.S., are they?</p> <p>14 A. Some of them for sure were in the UK. I</p> <p>15 can look them all up if you want.</p> <p>16 Q. And they were studies of women who had</p> <p>17 heavy occupational exposure to asbestos, correct?</p> <p>18 That's what the IARC Monograph says?</p> <p>19 A. I can -- I can look at that in more detail</p> <p>20 if I find Reid or --</p> <p>21 Q. No, I'm just asking you what the IARC</p> <p>22 Monograph says.</p> <p>23 MS. O'DELL: You're welcome to refer</p> <p>24 to Reid if you'd like.</p>	<p>1 can't remember which studies are that.</p> <p>2 Q. I'm talking about the studies IARC is</p> <p>3 relying on for its conclusion that ovarian cancer --</p> <p>4 A. I'd like to --</p> <p>5 Q. -- is related to --</p> <p>6 THE WITNESS: Get me Reid, will you?</p> <p>7 What is that saying on there?</p> <p>8 Q. (BY MR. KLATT) The studies are cited</p> <p>9 right there, Doctor.</p> <p>10 A. I know. I just --</p> <p>11 MS. O'DELL: She's just reading.</p> <p>12 A. -- was verifying the information before I</p> <p>13 give this to you.</p> <p>14 (Examined exhibit.) Okay. My -- the</p> <p>15 next sentence takes us where we want to go.</p> <p>16 (Paraphrasing.) The conclusion</p> <p>17 received these initial support from studies showing</p> <p>18 women and girls with environmental but not</p> <p>19 occupational exposure. I will give you that now.</p> <p>20 Q. Okay. But it says the link is clearly</p> <p>21 established based on the heavy occupational</p> <p>22 exposure, correct?</p> <p>23 MS. O'DELL: Objection to the form.</p> <p>24 A. That was their initial establishment of</p>
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<p>1 A. I'd like to refer to Reid if I can find</p> <p>2 it, because it's up here as evidence. Early,</p> <p>3 early --</p> <p>4 Q. (BY MR. KLATT) But I'm not asking you</p> <p>5 about Reid. I'm asking you about the IARC</p> <p>6 Monograph.</p> <p>7 A. The Reid includes those studies in a</p> <p>8 meta-analysis and has details on those studies that</p> <p>9 will allow me to refresh my memory --</p> <p>10 Q. All right. I'll withdraw --</p> <p>11 A. -- about them.</p> <p>12 Q. -- the question.</p> <p>13 I want to focus on what IARC's saying</p> <p>14 because you said earlier today you relied on IARC.</p> <p>15 IARC says in Exhibit 31, Doctor --</p> <p>16 IARC says in Exhibit 31 that the link to ovarian</p> <p>17 cancer and asbestos is based on the studies with</p> <p>18 women with heavy occupational exposure, correct?</p> <p>19 That's --</p> <p>20 A. Predominance, it says that. And the</p> <p>21 predominoc- -- the predominant exposure in these</p> <p>22 studies, to my memory, was occupational. But I</p> <p>23 believe some -- some studies were spouses and --</p> <p>24 of people who were nonoccupationally exposed, and I</p>	<p>1 the link.</p> <p>2 Q. (BY MR. KLATT) Now, that very same IARC</p> <p>3 Monograph, turn over to page 280, if you would. It</p> <p>4 says there in the right-hand column about three</p> <p>5 paragraphs down -- do you see where I'm reading?</p> <p>6 A. Yeah.</p> <p>7 Q. This very same IARC Working Group that</p> <p>8 looked at asbestos says, "The association between</p> <p>9 exposure to talc, potential retrograde translocation</p> <p>10 to the ovarian epithelium, and the development of</p> <p>11 ovarian cancer is controversial," correct?</p> <p>12 MS. O'DELL: Objection.</p> <p>13 A. That was their assessment based on</p> <p>14 IARC 2010, which --</p> <p>15 Q. (BY MR. KLATT) And this --</p> <p>16 MS. O'DELL: Excuse me.</p> <p>17 Q. (BY MR. KLATT) I'm sorry. Go ahead.</p> <p>18 A. -- and this volume.</p> <p>19 MS. O'DELL: She was not finished.</p> <p>20 Q. (BY MR. KLATT) And this volume is --</p> <p>21 MS. O'DELL: Excuse me.</p> <p>22 A. And this volume.</p> <p>23 MS. O'DELL: Let her finish, please,</p> <p>24 sir.</p>

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<p>1 Q. (BY MR. KLATT) Are you finished?</p> <p>2 A. I am now.</p> <p>3 MS. O'DELL: She was not finished, and</p> <p>4 it's not gonna be clear on the record.</p> <p>5 Dr. Smith, if you need to finish your</p> <p>6 answer, please go ahead and do that.</p> <p>7 Q. (BY MR. KLATT) I apologize. I thought</p> <p>8 you were finished, and so I didn't mean to interrupt</p> <p>9 you.</p> <p>10 So IARC, on the one hand --</p> <p>11 THE WITNESS: I said it.</p> <p>12 Q. (BY MR. KLATT) -- is saying --</p> <p>13 THE WITNESS: She's got it down.</p> <p>14 MS. O'DELL: Okay.</p> <p>15 Q. (BY MR. KLATT) I'm sorry?</p> <p>16 A. The transcriptionist has what I said.</p> <p>17 This -- 20 -- 93 and 100C, 2010 and 2012.</p> <p>18 Q. Are what IARC cites for stating that the</p> <p>19 association between exposure to talc, potential</p> <p>20 retrograde translocation to the ovarian epithelium,</p> <p>21 and the development of ovarian cancer is</p> <p>22 controversial, correct?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 A. That's what they say in probably 2011.</p>	<p>1 facts to substantiate. They are not the same thing,</p> <p>2 so I disagree with their assessment that retrograde</p> <p>3 translocation to the ovarian epithelium is at all</p> <p>4 controversial for any particulate.</p> <p>5 I have talked about the both</p> <p>6 epidemiologic and biochemical by different</p> <p>7 investigators of exposure to talc in vitro and a</p> <p>8 strong epidemiologic history relating talc and</p> <p>9 ovarian cancer.</p> <p>10 So based on what I've been talking</p> <p>11 about for the past 12 hours, I disagree with this.</p> <p>12 Q. (BY MR. KLATT) Okay. Well, that's what I</p> <p>13 wanted to establish.</p> <p>14 On the one hand, when IARC in the</p> <p>15 asbestos monograph in 2012 is talking about exposure</p> <p>16 to talc, translocation to the ovaries, and the</p> <p>17 development of ovarian cancer, they don't say it's</p> <p>18 clearly established at all.</p> <p>19 They -- they, IARC, says it's</p> <p>20 controversial, correct?</p> <p>21 MS. O'DELL: Objection; asked and</p> <p>22 answered.</p> <p>23 A. They're flat wrong.</p> <p>24 Q. (BY MR. KLATT) I'm asking what IARC says.</p>
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<p>1 Q. (BY MR. KLATT) So on the one hand,</p> <p>2 they're saying in this monograph that the link to</p> <p>3 ovarian cancer they ascertain is based on every</p> <p>4 occupational exposure, but when they describe the</p> <p>5 association with talc, retrograde translocation to</p> <p>6 the ovaries and ovarian cancer, they don't say it's</p> <p>7 clearly established at all. They say it's</p> <p>8 controversial, correct?</p> <p>9 MS. O'DELL: Object to the form.</p> <p>10 A. I know what they say. I can read their</p> <p>11 words. I would, again, disagree that retrograde</p> <p>12 translocation of particulates to the ovarian</p> <p>13 epithelium is not controversial based on the data</p> <p>14 that I've been talking about for about half the day.</p> <p>15 Q. (BY MR. KLATT) Which IARC also summarizes</p> <p>16 in its 2010 talc monograph and in this monograph?</p> <p>17 A. In 2010 --</p> <p>18 MS. O'DELL: Objection -- excuse me.</p> <p>19 Excuse me.</p> <p>20 Objection. That is -- misstates her</p> <p>21 prior testimony, and you know that.</p> <p>22 So to the degree you understand the --</p> <p>23 the question, Dr. Smith, please go ahead.</p> <p>24 A. I know what they say. I know what I have</p>	<p>1 A. I -- okay. We have read this sentence 14</p> <p>2 times.</p> <p>3 Q. Do you agree with it?</p> <p>4 A. I do not agree with the statement. I</p> <p>5 agree those words are printed on the paper.</p> <p>6 Q. Do you agree that's IARC's position?</p> <p>7 A. IARC printed those things --</p> <p>8 MS. O'DELL: Objection; asked and</p> <p>9 answered.</p> <p>10 A. -- and said that.</p> <p>11 Q. (BY MR. KLATT) Okay. Thank you.</p> <p>12 And they cite their own talc monograph</p> <p>13 in 2010, and they cite their asbestos monograph --</p> <p>14 A. Asked and answered.</p> <p>15 Q. -- and they ask -- you're not the lawyer</p> <p>16 here.</p> <p>17 A. I know it, but I'm getting it.</p> <p>18 Q. IARC, for the statement that the exposure</p> <p>19 to talc translocation to the ovaries and development</p> <p>20 of ovarian cancer is controversial, what IARC</p> <p>21 cites -- listen to me, Doctor -- what IARC cites --</p> <p>22 A. I'm listening. I have my eyes closed, but</p> <p>23 I'm listening.</p> <p>24 Q. -- is their own 2010 talc monograph and</p>

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<p style="text-align: right;">Page 362</p> <p>1 this very 2012 asbestos monograph, correct?</p> <p>2 MS. O'DELL: Excuse me. Asked and</p> <p>3 answered 10 times.</p> <p>4 Q. (BY MR. KLATT) Is that correct?</p> <p>5 MS. O'DELL: Excuse me. Asked and</p> <p>6 answered.</p> <p>7 A. The words are printed on the paper. That</p> <p>8 is what they wrote.</p> <p>9 Q. (BY MR. KLATT) So my statement's correct?</p> <p>10 MS. O'DELL: Objection.</p> <p>11 A. They wrote that, yes.</p> <p>12 Q. (BY MR. KLATT) Not that hard.</p> <p>13 I think we established earlier that</p> <p>14 there's not a single study showing talc applied to</p> <p>15 the external genital area has been shown to migrate</p> <p>16 into the ovaries?</p> <p>17 A. I know of no talc translocation migration</p> <p>18 studies.</p> <p>19 Q. And the Egli study and the Sjösten study</p> <p>20 and the Zervomanoklakis study --</p> <p>21 (Speaking simultaneously.)</p> <p>22 A. I'm not (unintelligible).</p> <p>23 Q. -- that you cited, none of those involve</p> <p>24 talc?</p>	<p style="text-align: right;">Page 364</p> <p>1 Q. (BY MR. KLATT) Okay. Well, let's talk --</p> <p>2 Egli and Zervomanoklakis involved injections of</p> <p>3 particles into something called the vaginal</p> <p>4 posterior fornix, correct?</p> <p>5 A. Um-hum.</p> <p>6 Q. I'm sorry?</p> <p>7 A. Yes.</p> <p>8 Q. And that's not the external genital area,</p> <p>9 is it?</p> <p>10 A. Hum. That is part of the lower genital</p> <p>11 tract.</p> <p>12 Q. The posterior vaginal fornix is the area</p> <p>13 of the vagina right next to the cervix, correct?</p> <p>14 A. Uh-huh.</p> <p>15 Q. So the very top of the vagina, correct?</p> <p>16 A. It's sort of at the very back.</p> <p>17 Q. And so it's not at the external genital</p> <p>18 area, correct?</p> <p>19 A. I didn't say it was external. I said it</p> <p>20 was part of the lower genital tract.</p> <p>21 Q. It's about halfway to the ovaries,</p> <p>22 correct?</p> <p>23 MS. O'DELL: Objection to form.</p> <p>24 A. Yes.</p>
<p style="text-align: right;">Page 363</p> <p>1 A. None of --</p> <p>2 MS. O'DELL: Object to the form.</p> <p>3 A. -- them did.</p> <p>4 Q. (BY MR. KLATT) And they all involve those</p> <p>5 particles being injected into the reproductive</p> <p>6 tract?</p> <p>7 MS. O'DELL: Object to the form.</p> <p>8 A. Absolutely not.</p> <p>9 Q. (BY MR. KLATT) They say poster- --</p> <p>10 A. Sjösten did not inject anything. He had</p> <p>11 corn starch on gloves.</p> <p>12 Q. And was that applied externally or was the</p> <p>13 corn starch --</p> <p>14 A. It's a pelvic examination.</p> <p>15 Q. Let me finish.</p> <p>16 And a pelvic examination involves</p> <p>17 introduction of corn starch on surgical gloves into</p> <p>18 the reproductive tract. It's not specific --</p> <p>19 A. I don't think you'll get any --</p> <p>20 MS. O'DELL: Excuse me. Excuse me.</p> <p>21 Q. (BY MR. KLATT) It's not external</p> <p>22 application, correct?</p> <p>23 MS. O'DELL: Object to the form.</p> <p>24 A. You said "injected."</p>	<p style="text-align: right;">Page 365</p> <p>1 Q. (BY MR. KLATT) And those animals in those</p> <p>2 studies --</p> <p>3 A. They're humans.</p> <p>4 Q. Well, no. You said -- Egli, I thought you</p> <p>5 said was in animals.</p> <p>6 MS. O'DELL: Object to form.</p> <p>7 A. No, Egli's in humans.</p> <p>8 Q. (BY MR. KLATT) Well --</p> <p>9 A. Egli's --</p> <p>10 Q. -- the humans were --</p> <p>11 A. -- in humans.</p> <p>12 Q. The hum- --</p> <p>13 A. Zervomanoklakis is in humans. Sjösten is</p> <p>14 in humans. Hunts is in humans.</p> <p>15 Q. And these humans, then, were given Pitocin</p> <p>16 to stimulate uterine contractions, weren't they?</p> <p>17 A. Some of them in some of the studies.</p> <p>18 Q. Well, that doesn't have anything to do</p> <p>19 with women applying talc externally, does it?</p> <p>20 MS. O'DELL: Object to the form.</p> <p>21 A. No, but it is part of the transport</p> <p>22 mech- -- the contractions of the uterus and the</p> <p>23 fallopian tube are part of the mechanisms of</p> <p>24 transport.</p>

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<p style="text-align: right;">Page 366</p> <p>1 Q. (BY MR. KLATT) And, in fact, in Egli, 2 the -- the study subjects were tilted head down at a 3 15-degree angle, correct? 4 MS. O'DELL: Objection to form. 5 A. Yes. 6 Q. (BY MR. KLATT) And in Sjösten, it was 7 corn starch, not talc, correct? 8 A. Yes. 9 Q. And you said these were a part of 10 gynecologic examinations in which the physician was 11 introducing the corn starch into the reproductive 12 tract, correct? 13 MS. O'DELL: Objection to form. 14 A. On his or her gloves. Not injecting it. 15 Q. (BY MR. KLATT) Health Canada that you've 16 referred to, they just announced a preliminary 17 evaluation and opened it up to public comment, 18 right? 19 A. They are in the 90-day discussion window. 20 Q. And -- well, the discussion window means 21 the public comments can be submitted for the next 90 22 days, correct? 23 A. Correct. 24 Q. And then they have up to two years to make</p>	<p style="text-align: right;">Page 368</p> <p>1 MS. O'DELL: Object to the form. 2 A. Gene expression is part of everything. 3 Q. (BY MR. KLATT) Exactly. It's how we 4 live. 5 If we didn't have gene expression, 6 we'd die, right? 7 A. Right. 8 Q. So the mere fact that they measured gene 9 expression doesn't say anything about causing 10 cancer, does it? 11 A. It's what genes -- 12 MS. O'DELL: Object to the form. 13 A. -- they looked at. 14 Q. (BY MR. KLATT) And Shukla didn't conclude 15 that their findings showed that talc causes 16 ovarian -- 17 MS. O'DELL: Give her a moment to -- 18 Q. (BY MR. KLATT) -- cancer -- 19 MS. O'DELL: -- and just -- 20 Q. (BY MR. KLATT) -- correct? 21 MS. O'DELL: You may look at the study 22 before you answer the question. 23 Q. (BY MR. KLATT) Well, you testified to 24 Shukla study in response to Ms. O'Dell's question</p>
<p style="text-align: right;">Page 367</p> <p>1 a decision whether they're gonna do anything at all 2 or nothing, correct? 3 MS. O'DELL: Object to the form. 4 A. Correct. 5 Q. (BY MR. KLATT) So they haven't made any 6 final conclusions at all, have they? 7 A. They've drawn their conclusions. They 8 will entertain comments. I think their conclusions 9 are compelling. 10 Q. Well, at the end of nine -- at the end of 11 two years, they may decide to do nothing at all 12 based on the evidence they receive, correct? 13 A. It might, but may still be here. 14 Q. The Shukla study that you talked about -- 15 A. Yes. 16 Q. -- that didn't look at any sort of genetic 17 mutations, did it? 18 A. It looked at gene activation. 19 THE WITNESS: Can you get the Shukla? 20 Q. (BY MR. KLATT) Gene expression, correct? 21 A. Gene expression. 22 THE WITNESS: Sorry. Thank you. 23 Q. (BY MR. KLATT) Gene expression is a part 24 of daily living, isn't it?</p>	<p style="text-align: right;">Page 369</p> <p>1 without looking at it. 2 MS. O'DELL: Let me rephrase my 3 objection. 4 If you need to look at a study, you 5 may. If you don't, please feel free to answer Mr. 6 Klatt's questions. 7 Q. (BY MR. KLATT) Doctor, when you were 8 answering Ms. O'Dell's questions about Shukla, you 9 didn't need to look at the study, did you? 10 MS. O'DELL: Objection. 11 A. I want to know -- I want to see the 12 descriptions of -- 13 Q. (BY MR. KLATT) Did they conclude their 14 results of their study showed that talc caused 15 ovarian cancer? 16 A. (Examined exhibit.) So they looked at -- 17 this is the mesothelioma, so we're not -- they 18 looked at subalteration, cell activation, cell 19 motility, immune response, protein metabolic 20 processes, signal transection, changes in 21 extracellular matrix. 22 All of these are pathways looking at 23 MRA levels that are activated in the carcinogenic 24 process in . . .</p>

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<p>1 Q. Doctor, my question is: Shukla nowhere 2 concludes that the results of their experiments 3 showed that talc or even asbestos caused ovarian 4 cancer, correct? 5 A. No, they did not cause ovarian cancer, 6 yes. 7 They upregulated enzymes active in 8 some part of the carcinogenic process. They didn't 9 induce any demonstrated genetic abnormalities. 10 Q. Correct. 11 And if you would turn your attention 12 to page 2000 -- I'm sorry. Page -- do you have a 13 page 121? 14 A. No -- oh, wait. I have a -- this is 15 crazy. I have a 199 and then it goes to 2009 -- oh, 16 wait. That may be the year. 17 Q. I think that's the year. 18 A. Yeah, I think that's the year. 19 Ah. I have a 121, yes. 20 Q. Okay. Do you see a paragraph in the 21 Shukla study on page 121 beginning with, "Several 22 other genes"? 23 A. Yes. 24 Q. "Several other genes uprate -- upregulated</p>	<p>1 A. You can modulate up and you can modulate 2 down. 3 Q. And what they found is that it modulated 4 down, correct? 5 MS. O'DELL: Object to the form. 6 A. I don't see the figure. 7 Q. (BY MR. KLATT) Do you see the next thing 8 they talk about? Upregulation of angiopoietin-4. 9 A. Um-hum. 10 Q. Do you see that? 11 A. Uh-huh. 12 Q. Is thought to play a key role -- or excuse 13 me, play a role in inhibition of tumor cell motility 14 and metastasis. 15 So if you're inhibiting tumor cell 16 motility and metastasis, that's an anticancer 17 property, correct? 18 MS. O'DELL: Objection to the form. 19 A. Yes. 20 Q. (BY MR. KLATT) And then KLF4, 21 Kruppel-like factor 4, is a negative regulator of 22 cell proliferation, correct? 23 A. And can be a positive or negative 24 modulator of DNA transcription.</p>
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<p>1 by talc at 8 hours are affected by asbestos at both 2 8 and 24 hours may be important in repair from 3 mineral-induced responses," correct? 4 A. Correct. 5 MS. O'DELL: Object to the form. 6 Q. (BY MR. KLATT) For example, SOD2 is an 7 antioxidant protein, correct? 8 A. Correct. 9 Q. Antioxidant has anticancer properties, 10 right? 11 MS. O'DELL: Object to the form. 12 A. In general. 13 Q. (BY MR. KLATT) And you see that the next 14 thing they talk about, PTGS2? 15 A. Yes. 16 Q. It's a key enzyme in pros- -- prostanoic 17 bio- -- biosynthesis associated with modulation of 18 mitogenesis and inflammation, correct? 19 MS. O'DELL: Object to the form. 20 A. Correct. 21 Q. (BY MR. KLATT) That's an anticancer 22 property? 23 A. Not necessarily. 24 Q. Well --</p>	<p>1 Q. Well, cancer is uncontrolled cell 2 proliferation, correct? 3 A. You can't -- it can go either way. 4 Q. Well, it says -- 5 MS. O'DELL: Excuse me. She's 6 finished? 7 Q. (BY MR. KLATT) -- it's a negative 8 regulator of cell proliferation. 9 Does it say that? 10 A. Which is different from transcription. It 11 says "positive or negative transcription." 12 Q. But if you're a negative regulator of cell 13 proliferation, that's an anticancer property, 14 correct? 15 MS. O'DELL: Objection to form. 16 A. I think -- 17 MS. O'DELL: She's answered the 18 question. 19 A. -- that's oversimplified. 20 Q. (BY MR. KLATT) What a negative regulator 21 of cell proliferation means it down-regulates 22 self-proliferation, correct? 23 A. Yes. 24 Q. That's anticancer property?</p>

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<p>1 A. I think when you make that big jump, there 2 are a whole lot of little steps in there to get to 3 that. 4 I can't make that conclusion, and I 5 don't think you can either. 6 Q. I'm just reading what they're saying 7 there. 8 MS. O'DELL: Object to the form. 9 A. No, you're interpreting what they're 10 saying because they didn't say it's an anticancer 11 drug. 12 Q. (BY MR. KLATT) They say it's a negative 13 regulator of cell proliferation, correct? 14 A. And nowhere in this sentence does it say 15 it's anticancer. 16 Q. Well, do you want something that increases 17 cell proliferation or decreases cell proliferation? 18 A. Certainly in repair -- 19 MS. O'DELL: Objection to form. 20 A. -- process. If it's normal epithelium, I 21 want -- you don't know enough about this and neither 22 do I. 23 Can we just keep going? 24 Q. (BY MR. KLATT) Sure. That's fine.</p>	<p>1 Q. You're aware that Dr. Saed has just 2 started writing about talc in relation to ovarian 3 cancer since he's become a retained litigation 4 expert by the plaintiffs, right? 5 MS. O'DELL: Objection to form. 6 A. I can't tell you the exact first time he 7 did an experiment or published a result with that. 8 I can't -- I . . . 9 Q. (BY MR. KLATT) You're not aware of 10 Dr. Saed making any sort of connection between talc 11 and ovarian cancer before you got involved in this 12 litigation, correct? 13 A. I -- I'm not aware of that. 14 Q. IARC has not said that any of the heavy 15 metals you cite in your report increase the risk of 16 ovarian cancer, correct? 17 A. They have called them Class 1 carcinogens, 18 and there's been no association with ovarian cancer 19 made in their report. 20 Q. And you're not aware of any evidence that 21 women who use talc-based body powder products have 22 increased blood or tissue levels of cadmium, cobalt, 23 chromium, or nickel, compared to women who never use 24 those products --</p>
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<p>1 You're not aware of any evidence that 2 genital talc use increases vulvar cancer in women -- 3 A. No. 4 Q. -- who use it, correct? Correct? 5 A. I said "no." Correct. 6 Q. You're not aware of any evidence that 7 women who use external genital talc have increased 8 risk of vaginal cancer, correct? 9 A. I do not. 10 Q. And I believe with Mr. -- 11 A. James. 12 Q. -- Mr. Scott James you talked about no -- 13 awareness of no increase in cervical cancer or 14 uterine cancer in talc users, correct? 15 A. You are correct. 16 Q. And also, talc applied to the external 17 genital area would come into contact with the rectal 18 area, correct? 19 MS. O'DELL: Objection. 20 A. It -- yes. 21 Q. (BY MR. KLATT) Are you aware of any 22 evidence that women who use talc in the genital area 23 have an increased risk of rectal cancer? 24 A. I do not have any evidence to that effect.</p>	<p>1 A. I know no evidence -- 2 Q. -- correct -- 3 MS. O'DELL: Objection; form. 4 A. -- to that effect. 5 MS. O'DELL: Excuse me. Objection to 6 form. 7 Q. (BY MR. KLATT) Is that correct? 8 A. I know no evidence to that effect. 9 Q. And finally, Doctor, and I think it's very 10 admirable what you're currently doing with the women 11 who are in hospice care for ovarian cancer. 12 When you interact with these women, 13 you interact not only with the women but with their 14 family and friends as well, correct? 15 A. Absolutely. 16 Q. Now, have you ever told any of their 17 family or friends that they shouldn't use talc -- 18 MS. O'DELL: Objection to form. 19 Q. (BY MR. KLATT) -- in the genital area? 20 A. I think it would be quite inappropriate to 21 have that conversation at that time. 22 Q. Well, these are women -- these are 23 mothers, sisters, daughters, and female friends of 24 these women who are dying with ovarian cancer,</p>

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1	correct?	1	MR. JAMES: Thank you, Dr. Smith.
2	MS. O'DELL: Objection to form.	2	(Discussion off the record.)
3	A. I have never told them -- counseled a	3	THE COURT REPORTER: Leigh, would you
4	family member or a friend or a child of a dying	4	like the witness to read and sign?
5	ovarian cancer patient about genital talc use.	5	MS. O'DELL: Yes, I would.
6	Q. (BY MR. KLATT) You haven't said a word	6	THE COURT REPORTER: Would you like it
7	about it right up until as we sit here today; is	7	to go to you or directly to the witness?
8	that correct?	8	MS. O'DELL: To me.
9	MS. O'DELL: Objection to form.	9	
10	A. Correct.	10	(Deposition concluded at 9:23 p.m.,
11	MR. KLATT: Thank you. That's all I	11	January 9, 2019.)
12	have.	12	
13	MR. JAMES: I don't have any further	13	
14	questions.	14	
15	MS. O'DELL: Okay.	15	
16	FURTHER EXAMINATION	16	
17	BY MS. O'DELL:	17	
18	Q. I have -- have -- let me just ask one	18	
19	question.	19	
20	In the situation when you're	20	
21	counseling a family of a dying patient, would it be	21	
22	inappropriate to have a discussion that Mr. Klatt	22	
23	suggested?	23	
24	A. I feel it would be.	24	

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1	MS. O'DELL: Okay. I have no further	1	CHANGES AND SIGNATURE
2	questions.	2	WITNESS NAME: ELLEN BLAIR SMITH, M.D.
3	FURTHER EXAMINATION	3	DATE: JANUARY 9, 2019
4	BY MR. KLATT:	4	PAGE/LINE CHANGE REASON
5	Q. Well, let me ask one more question about	5	
6	that.	6	
7	Do you ever care for women who are	7	
8	dying from ovarian cancer due to BRCA1 or BRCA2	8	
9	mutations?	9	
10	MS. O'DELL: Object to the form.	10	
11	A. I -- in my life? Yes.	11	
12	Q. (BY MR. KLATT) And you would certainly	12	
13	counsel those women to have their female mothers,	13	
14	sisters, daughters, and friends -- well, mothers,	14	
15	sisters, and daughters tested for those mutations,	15	
16	correct, because you'd want them to take steps to	16	
17	potentially avoid the risk of ovarian cancer.	17	
18	A. Correct.	18	
19	MS. O'DELL: Objection.	19	
20	MR. KLATT: Thank you.	20	
21	MS. O'DELL: I have nothing further.	21	
22	THE VIDEOGRAPHER: This concludes the	22	
23	deposition of Ellen Blair Smith, M.D. Going off the	23	
24	record. The time is 9:22 p.m.	24	

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<p style="text-align: right;">Page 382</p> <p>1 I, ELLEN BLAIR SMITH, M.D., have read the 2 foregoing deposition and hereby affix my signature 3 that same is true and correct, except as noted 4 above. 5 _____ 6 ELLEN BLAIR SMITH, M.D. 7 8 THE STATE OF _____) 9 10 COUNTY OF _____) 11 12 Before me, _____, on 13 this day personally appeared ELLEN BLAIR SMITH, 14 M.D., known to me (or proved to me under oath or 15 through _____) (description of 16 identity card or other document) to be the person 17 whose name is subscribed to the foregoing instrument 18 and acknowledged to me that they executed the same 19 for the purposes and consideration therein 20 expressed. 21 Given under my hand and seal of office 22 this _____ day of _____, 23 2019. 24 _____ NOTARY PUBLIC IN AND FOR THE STATE OF _____</p>	<p style="text-align: right;">Page 384</p> <p>1 following: 2 That the witness, ELLEN BLAIR SMITH, M.D., 3 was duly sworn by the officer and that the 4 transcript of the oral deposition is a true record 5 of the testimony given by the witness; 6 That the original deposition was delivered 7 to SCOTT A. JAMES, custodial attorney; 8 That a copy of this certificate 9 was served on all parties and/or the witness shown 10 herein on _____. 11 I further certify that pursuant to FRCP 12 No. 30(f)(i) that the signature of the deponent was 13 requested by the deponent or a party before the 14 completion of the deposition and the signature is to 15 be returned within 30 days from date of receipt of 16 the transcript. 17 If returned, the attached Changes 18 and Signature Page contains any changes and the 19 reasons therefor. 20 That pursuant to information given to the 21 deposition officer at the time said testimony was 22 taken, the following includes counsel for all 23 parties of record: 24</p>
<p style="text-align: right;">Page 383</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE DISTRICT OF NEW JERSEY 3 4 IN RE: JOHNSON & JOHNSON) 5 TALCUM POWDER PRODUCTS) 6 MARKETING, SALES) 7 PRACTICES, AND PRODUCTS) MDL NO: 8 LIABILITY LITIGATION) 16-2738 (FLW)(LHG) 9) 10 THIS DOCUMENT RELATES TO) 11 ALL CASES) 12 13 14 15 16 17 18 19 20 21 22 23 24</p> <p style="text-align: center;">REPORTER'S CERTIFICATE</p> <p>----- DEPOSITION OF ELLEN BLAIR SMITH, M.D. TAKEN JANUARY 9, 2019 -----</p> <p>I, Karen L. D. Schoeve, Registered Diplomate Reporter, Certified Realtime Reporter, and Realtime Systems Administrator, residing in the State of Texas, do hereby certify that the foregoing proceedings were reported by me and that the foregoing transcript constitutes a full, true, and correct transcription of my stenographic notes, to the best of my ability and hereby certify to the</p>	<p style="text-align: right;">Page 385</p> <p>1 FOR PLAINTIFFS' STEERING COMMITTEE: 2 P. LEIGH O'DELL, ESQUIRE 3 DR. MARGARET M. THOMPSON, ESQUIRE 4 BEASLEY ALLEN, P.C. 5 218 Commerce Street 6 P.O. Box 4160 7 Montgomery, Alabama 36104 8 T: 334.269.2343 (Ms. O'Dell) 9 F: 334.954.7555 (Ms. O'Dell) 10 C: 512.695.1708 (Ms. Thompson) 11 T: 800.898.2034 (Ms. Thompson) 12 F: 855.674.1818 (Ms. Thompson) 13 leigh.odell@beasleyallen.com 14 margaret.thompson@beasleyallen.com 15 --AND-- 16 CYNTHIA L. GARBER, ESQUIRE 17 ROBINSON CALCAGNIE, INC. 18 19 Corporate Plaza Drive 19 Newport Beach, California 92660 20 C: 949.456.0037 21 T: 949.720.1288 22 F: 949.720.1292 23 cgarber@robinsonfirm.com 24 --AND-- PAULA R. BROWN, ESQUIRE BLOOD HURST & O'REARDON, LLP 501 West Broadway, Suite 1490 San Diego, California 92101 T: 619.338.1100 F: 619.338.1101 pbrown@bholaw.com (Continued on following page)</p>

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<p>1 FOR DEFENDANTS JOHNSON & JOHNSON ENTITIES: 2 SCOTT A. JAMES, ESQUIRE 3 SHOOK, HARDY & BACON L.L.P. 4 JPMorgan Chase Tower 5 600 Travis Street, Suite 2450 6 Houston, Texas 77002-2926 7 D: 713.546.5644 8 T: 713.227.8008 9 F: 713.227.9508 10 sjames@shb.com 11 --AND-- 12 KATHERINE McBETH, ESQUIRE 13 DRINKER BIDDLE & REATH LLP 14 One Logan Square, Suite 2000 15 Philadelphia, Pennsylvania 19103-6996 16 D: 215.988.2706 17 T: 215.988.2700 18 F: 215.988.2757 19 katherine.mcbeth@dbr.com 20 21 FOR DEFENDANT IMERYS TALC AMERICA, INC. 22 MICHAEL R. KLATT, ESQUIRE 23 GORDON REES SCULLY MANSUKHANI, LLP 24 816 Congress Avenue, Suite 1510 Austin, Texas 78701 D: 512.582.6485 T: 512.391.0197 F: 512.391.0183 mklatt@grsm.com --AND-- MARK K. SILVER, ESQUIRE COUGHLIN DUFFY LLP 350 Mount Kemble Avenue P.O. Box 1917 Morristown, New Jersey 07962 D: 973.631.6045 T: 973.267.0058 F: 973.267.6442 msilver@coughlinduffy.com</p>	<p>1 Subscribed and sworn to on this the 11th 2 day of January, 2019. 3 4 5 6 7 Karen L.D. Schoeve, RDR, CRR 8 Realtime Systems Administrator 9 NCRA Exp. Date: 09-30-21 10 Golkow Litigation Services 11 Firm Registration No. 690 12 One Liberty Place 13 1650 Market Street, Suite 5150 14 Philadelphia, Pennsylvania 19103 15 T: 877.370.3377 16 F: 917.591.5672 17 www.golkow.com 18 19 20 21 22 23 24</p>
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<p>1 FOR DEFENDANT PERSONAL CARE PRODUCTS COUNCIL: 2 RENEE B. APPEL, ESQUIRE 3 SEYFARTH SHAW LLP 4 975 F Street, N.W. 5 Washington, D.C. 20004 6 D: 202.828.5371 7 T: 202.463.2400 8 F: 202.828.5393 9 rappel@seyfarth.com 10 11 FOR DEFENDANTS PTI ROYSTON LLC AND PTI UNION LLC: 12 TARIQ M. NAEEM, ESQUIRE 13 TUCKER ELLIS LLP 14 950 Main Avenue, Suite 1100 15 Cleveland, Ohio 44113-7213 16 D: 216.696.3675 17 T: 216.592.5000 18 F: 216.592.5009 19 tariq.naeem@tuckerellis.com 20 21 I further certify that I am neither 22 counsel for, related to, nor employed by any of the 23 parties in the action in which this proceeding was 24 taken, and further that I am not financially or otherwise interested in the outcome of the action. (Continued on following page)</p>	

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